

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

1997-1998 Annual Report

California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739

CALIFORNIA LAW REVISION COMMISSION

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Chairperson

EDWIN K. MARZEC

Vice Chairperson

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ALLAN L. FINK

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BION M. GREGORY

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Staff Counsel

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Staff Counsel

Administrative-Secretarial

LAUREN M. TREVATHAN

Administrative Assistant

VICTORIA V. MATIAS

Secretary

NOTE

The Commission's reports, recommendations, and studies are published in separate pamphlets that are later bound in hardcover form. The page numbers in each pamphlet are the same as in the volume in which the pamphlet is bound, which permits citation to Commission publications before they are bound.

This publication (#196) will appear in Volume 27 of the Commission's *Reports, Recommendations, and Studies*.

Commission publications and other materials are available on the Internet at <http://www.clrc.ca.gov/>.

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SUMMARY OF WORK OF COMMISSION

Recommendations Enacted in the 1997 Legislative Session

In 1997, four bills effectuating the Commission's recommendations were enacted relating to the following subjects:

- Mediation confidentiality
- Quasi-public entity hearings
- Attachment by undersecured creditors
- Trial court delay reduction rules (technical amendment)

Five bills introduced in 1997 remain before the Legislature as two-year bills. A recommendation relating to unfair competition litigation was not enacted.

The Commission also submitted a report to the Legislature on its consultation with the Public Utilities Commission concerning needed revisions of the Public Utilities Code resulting from restructuring of the electrical, gas, transportation, and telecommunications industries.

Recommendations to the 1998 Legislature

In 1998, the Commission plans to submit recommendations on the following subjects to the Legislature:

- Trial court unification
- Business judgment rule
- Protecting settlement negotiations
- Inheritance from or through a foster parent or stepparent

The Commission will also continue its efforts on the two-year bills introduced in 1997 to implement the following recommendations:

- Best evidence rule (SB 177)
- Judicial review of agency action (SB 209 & SB 261)
- Administrative law judge code of ethics (SB 453)
- Real property covenants (AB 707)

Commission Activities Planned for 1998

During 1998, the Commission will work on trial court unification, health care decisionmaking, administrative rulemaking, effect

of marital dissolution on nonprobate transfers, environmental law consolidation, and the Uniform Unincorporated Nonprofit Association Act. The Commission will consider other subjects as time permits, including protective proceedings for federal benefits, local agency hearing procedures, time for responding to a demand for production of documents in discovery, tolling statute of limitations when a defendant is out of state, mechanical and other problems in the homestead exemption, and issues in eminent domain and inverse condemnation.

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STATE OF CALIFORNIA

PETE WILSON, Governor

CALIFORNIA LAW REVISION COMMISSION

4000 MIDDLEFIELD ROAD, ROOM D-1
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ALLAN L. FINK
BION M. GREGORY
SENATOR QUENTIN L. KOPP
ARTHUR K. MARSHALL
SANFORD M. SKAGGS
COLIN W. WIED

November 13, 1997

To: The Honorable Pete Wilson
Governor of California, and
The Legislature of California

In conformity with Government Code Section 8293, the California Law Revision Commission herewith submits this report of its activities during 1997.

Four of the 10 bills introduced in 1997 to effectuate the Commission's recommendations were enacted. (Five of these bills are two-year bills and will be considered in 1998.) A concurrent resolution recommended by the Commission was adopted. One bill failed passage.

The Commission also submitted a report to the Legislature on its consultation with the Public Utilities Commission concerning needed revisions of the Public Utilities Code resulting from restructuring of the electrical, gas, transportation, and telecommunications industries.

The Commission is grateful to the members of the Legislature who carried Commission-recommended bills:

- Senator Kopp (best evidence rule, judicial review of agency action, quasi-public entity hearings, unfair competition litigation, trial court delay reduction rules, concurrent resolution continuing Commission's authority)
- Senator Calderon (administrative law judge code of ethics)
- Senator Solis (administrative law judge code of ethics)

- Assembly Member Ackerman (attachment by undersecured creditors, mediation confidentiality, real property covenants)
- Assembly Member Ortiz (mediation confidentiality)

The Commission held one two-day meeting and nine one-day meetings during 1997. Meetings were held in Los Angeles, Sacramento, and San Diego.

Respectfully submitted,

Christine W.S. Byrd
Chairperson

1997-1998 ANNUAL REPORT

Introduction

The California Law Revision Commission was created in 1953 as the permanent successor to the Code Commission and given responsibility for a continuing substantive review of California statutory and decisional law.¹ The Commission studies the law to discover defects and anachronisms and recommends legislation to make needed reforms.

The Commission assists the Legislature in keeping the law up to date by:

- Intensively studying complex and sometimes controversial subjects
- Identifying major policy questions for legislative attention
- Gathering the views of interested persons and organizations
- Drafting recommended legislation for legislative consideration

The Commission's efforts enable the Legislature to focus on significant policy questions in a recommendation rather than on the technical issues which can be resolved in the process of preparing background studies, working out intricate legal problems, and drafting implementing legislation. The Commission thus helps the Legislature accomplish needed reforms that otherwise might not be made because of the heavy demands on legislative time. In some cases, the Commission's report demonstrates that no new legislation on a particular topic is needed, thus relieving the Legislature of the need to study the topic.

The Commission consists of:

- A Member of the Senate appointed by the Rules Committee
- A Member of the Assembly appointed by the Speaker
- Seven members appointed by the Governor with the advice and consent of the Senate
- The Legislative Counsel, who is an ex officio member

1. See Gov't Code §§ 8280-8298 (statute establishing Law Revision Commission) (Appendix 1 *infra* pp. 559-64). See also *1955 Report* [Annual Report for 1954] at 7, 1 Cal. L. Revision Comm'n Reports (1957).

The Commission may study only topics that the Legislature has authorized. The Commission now has a calendar of 21 topics.²

Commission recommendations have resulted in the enactment of legislation affecting 18,793 sections of the California statutes: 8,817 sections added, 3,129 sections amended, and 6,847 sections repealed. The Commission has submitted more than 300 recommendations to the Legislature. About 95% of these recommendations have been enacted in whole or in substantial part.³

The Commission's recommendations are published in softcover and later collected in hardcover volumes. A list of past publications and information on obtaining copies are at the end of this Annual Report.

1998 Legislative Program

In addition to continuing its efforts on pending bills introduced in the 1997 legislative session, the Commission plans to submit recommendations to the Legislature in 1998 concerning the following subjects:

Business Law

Business judgment rule. The Commission will recommend codification of the business judgment rule for liability of directors of business corporations.

Civil Procedure and Judicial Administration

Protecting settlement negotiations. The Commission will recommend protecting offers of compromise and other settlement overtures from admissibility and, in some circumstances, from discovery.

Trial court unification. The Commission will recommend amendments to accommodate trial court unification to implement Senate Constitutional Amendment 4 (on the June 1998 ballot), providing for unification of the trial courts in a county on the vote

2. See list of topics under "Calendar of Topics Authorized for Study" in Appendix 2 *infra* pp. 565-68.

3. See "Legislative Action on Commission Recommendations" in Appendix 3 *infra* pp. 569-92.

of a majority of the judges of superior and municipal courts in the county.⁴ The recommendation will also include conforming revisions for the 1994 elimination of the justice court.

Estate Planning, Probate, and Trusts

Inheritance by foster child or stepchild. The Commission will recommend clarification of the law governing inheritance by a foster child or stepchild under Probate Code Section 6454.

Major Studies in Progress

During 1998, the Commission plans to work on five major topics: administrative rulemaking, health care decisionmaking, environmental law consolidation, the Uniform Unincorporated Non-profit Association Act, and selected issues in eminent domain and inverse condemnation. The Commission will also consider other subjects to the extent time permits.

Administrative Rulemaking

Administrative rulemaking is the third phase of the Commission's study of administrative law and procedure, following revision of state agency adjudication and judicial review of agency action. This phase of the study was activated in 1996. The Commission plans to address individual problems in the rulemaking procedure; it will not propose a comprehensive revision of the rulemaking procedure. The Commission has engaged the services of two expert academic consultants to give advice on this project: Professors Michael Asimow (UCLA Law School) and Gregory Ogden (Pepperdine Law School). A third academic consultant, Professor Gregory Weber, is no longer available. The Commission has replaced Professor Weber with two academic consultants to present a private sector perspective on the issues: Professors Robert K. Best and J. Clark Kelso of McGeorge Law School.

Health Care Decisionmaking

The Commission has begun consideration of revisions of health care decisionmaking law and should have a tentative recommen-

4. 1996 Cal. Stat. res. ch. 36 (SCA 4).

dition ready for comment during 1998. This study considers changes in the law that have occurred throughout the country since California enacted its pioneering durable power of attorney for health care statute in 1983. The Commission is reviewing the California Natural Death Act and the Uniform Health-Care Decisions Act (1993). The Commission has retained as an expert consultant Professor David English (University of Santa Clara Law School), reporter for the Uniform Act. Consideration of durable power of attorney for health care issues was reserved for study when the Commission reviewed the power of attorney statutes culminating in enactment of the comprehensive Power of Attorney Law in 1994.

Environmental Law Consolidation

The Legislature has directed the Commission to study whether the laws within various codes relating to environmental quality and natural resources should be reorganized in order to simplify and consolidate relevant statutes, resolve inconsistencies between the statutes, and eliminate obsolete and unnecessarily duplicative statutes.⁵ In the fall of 1997, the Commission requested public comment on a suggested outline of a California Environmental Code. The outline was developed for the Commission by its consultants, Professors John Dwyer (University of California, Berkeley, Law School) and Brian Gray (Hastings College of Law).

Selected Issues in Eminent Domain and Inverse Condemnation

The Eminent Domain Law was enacted on recommendation of the Commission in 1975. The Commission plans during 1998, with the assistance of Professor Gideon Kanner (a Commission consultant on the original project), to commence review of selected issues in eminent domain law, including date of valuation, assessment of general and special benefits and severance damages, and condemnation by public utilities. The Commission also plans to study procedural prerequisites for an inverse condemnation action, particularly exhaustion of administrative remedies and ripeness requirements, and relevant limitations periods.

5. 1996 Cal. Stat. res. ch. 38 (SCR 43).

Uniform Unincorporated Nonprofit Association Act

The Commission has retained Professor Michael Hone (University of San Francisco Law School) as a consultant to prepare an analysis of the Uniform Unincorporated Nonprofit Association Act (1992). The Commission plans to begin consideration of this matter when Professor Hone's analysis is received. The Commission hopes to make substantial progress on this topic during 1998.

Other Subjects

The major studies in progress described above will dominate the Commission's time and resources during 1998. If time permits, the Commission will work other subjects into its agenda. These subjects include local agency hearing procedures, termination of beneficiary designations and severance of joint tenancy on dissolution of marriage, time for responding to a demand for production of documents in discovery, mechanical and other problems in the homestead exemption, revision of the law governing tolling the statute of limitations when the defendant is out of state, and other matters.

Calendar of Topics for Study

The Commission's calendar of topics is set out in Appendix 2.⁶ The Legislature has authorized each of these topics for Commission study.⁷ Because of the number and scope of the topics already on its calendar, the Commission does not recommend the addition of any topics to the calendar in 1998.

6. See *infra* pp. 565-68.

7. Government Code Section 8293 provides that the Commission shall study, in addition to those topics that it recommends and are approved by the Legislature, any topics the Legislature by concurrent resolution refers to it for study. For the current authorization, see 1997 Cal. Stat. res. ch. 102 (SCR 3). In addition, Code of Civil Procedure Section 703.120 requires the Commission to review statutes providing for exemptions from enforcement of money judgments every 10 years and to recommend any needed revisions. The next report will be due in 2003.

Function and Procedure of Commission

The principal duties of the Commission⁸ are to:

- (1) Examine the common law and statutes for the purpose of discovering defects and anachronisms.
- (2) Receive and consider suggestions and proposed changes in the law from the American Law Institute, the National Conference of Commissioners on Uniform State Laws,⁹ bar associations, and other learned bodies, and from judges, public officials, lawyers, and the public generally.
- (3) Recommend such changes in the law as it deems necessary to bring California law into harmony with modern conditions.¹⁰

The Commission is required to file a report at each regular session of the Legislature containing a calendar of topics selected by it for study, listing both studies in progress and topics intended for future consideration. As a general rule, the Commission may study only topics that the Legislature, by concurrent resolution, authorizes for study.¹¹ However, the Commission may study and recommend revisions to correct technical or minor substantive defects in state statutes without a prior concurrent resolution.¹²

8. Gov't Code §§ 8280-8298 (statute governing California Law Revision Commission). See Appendix 1 *infra* pp. 559-64.

9. The Legislative Counsel, an ex officio member of the Law Revision Commission, serves as a Commissioner of the Commission on Uniform State Laws. See Gov't Code § 8261. The Commission's Executive Secretary serves as an Associate Member of the National Conference of Commissioners on Uniform State Laws.

10. Gov't Code § 8289. The Commission is also directed to recommend the express repeal of all statutes repealed by implication or held unconstitutional by the California Supreme Court or the United States Supreme Court. Gov't Code § 8290. See "Report on Statutes Repealed by Implication or Held Unconstitutional" *infra* pp. 556-57.

11. Gov't Code § 8293.

12. Gov't Code § 8298.

Background Studies

The Commission's work on a recommendation typically begins after a background study has been prepared. The background study may be prepared by a member of the Commission's staff or by a specialist in the field who is retained as a consultant. Law professors and practicing attorneys who serve as consultants have already acquired the considerable knowledge necessary to understand the specific problems under consideration, and they receive little more than an honorarium for their services. From time to time, expert consultants are also retained to advise the Commission at meetings.

Recommendations

After making its preliminary decisions on a subject, the Commission ordinarily distributes a tentative recommendation to interested persons and organizations, including the State Bar, local and specialized bar associations, public interest organizations, and business and professional associations. Notice of the availability of the tentative recommendation is mailed to interested persons on the Commission's mailing list and publicized in legal newspapers and other relevant publications. Notice is also posted on the Commission's website and emailed to interested persons.

Comments received on the tentative recommendation are considered by the Commission in determining what recommendation, if any, will be made to the Legislature. When the Commission has reached a conclusion on the matter, its recommendation¹³ to the Legislature (including a draft of any necessary legislation) is published and distributed in printed form and electronically on the Internet. If a background study has been prepared in connection with the recommendation, it may be published by the Commission or in a law review.¹⁴

13. Occasionally one or more members of the Commission may not join in all or part of a recommendation submitted to the Legislature by the Commission. Dissents are noticed in the minutes of the meeting where the recommendation is approved.

14. For recent background studies published in law reviews, see Asimow, *The Scope of Judicial Review of Decisions of California Administrative Agencies*, 42 UCLA L. Rev. 1157 (1995); Asimow, *Toward a New California Administrative Procedure Act: Adjudication Fundamentals*, 39 UCLA L. Rev. 1067 (1992);

Official Comments

The Commission ordinarily prepares an official Comment explaining each section it recommends. These Comments are included in the Commission's printed recommendations. Comments may be revised by the Commission in later reports to reflect amendments made in the legislative process.¹⁵ Reports provide background with respect to Commission intent in proposing the legislation, such intent being reflected in the Comments to the various sections of the bill contained in the Commission's recommendation, except to the extent that new or revised Comments are set out in the report on the bill as amended.¹⁶

Kasner, *Donative and Interspousal Transfers of Community Property in California: Where We Are (or Should Be) After MacDonald*, 23 Pac. L.J. 361 (1991). A revised version of Prof. Fellmeth's background study on unfair competition litigation was published as Fellmeth, *Unfair Competition Act Enforcement by Agencies, Prosecutors, and Private Litigants: Who's on First?*, 15 Cal. Reg. L. Rep. 1 (Winter 1995).

For a list of background studies published in law reviews before 1991, see 10 Cal. L. Revision Comm'n Reports 1108 n.5 (1971); 11 Cal. L. Revision Comm'n Reports 1008 n.5, 1108 n.5 (1973); 13 Cal. L. Revision Comm'n Reports 1628 n.5 (1976); 16 Cal. L. Revision Comm'n Reports 2021 n.6 (1982); 17 Cal. L. Revision Comm'n Reports 819 n.6 (1984); 18 Cal. L. Revision Comm'n Reports 212 n.17, 1713 n.20 (1986); 19 Cal. L. Revision Comm'n Reports 513 n.22 (1988); 20 Cal. L. Revision Comm'n Reports 198 n.16 (1990).

15. Many amendments are made on Commission recommendation to address matters brought to the Commission's attention after publication of its recommendation. In some cases, however, a bill may be amended in a way that the Commission believes is not desirable and does not recommend.

16. For an example of such a report, see Appendix 5 *infra* pp. 595-621. Reports containing new or revised comments are printed in the next Annual Report following enactment of a recommendation, and may be found by reference to the "Cumulative Table of Sections Affected by Commission Recommendations" included in each bound volume of Commission reports. For a description of legislative committee reports adopted in connection with the bill that became the Evidence Code, see *Arellano v. Moreno*, 33 Cal. App. 3d 877, 884, 109 Cal. Rptr. 421, 426 (1973).

On rare occasions, the Commission will approve revised Comments to make important editorial changes or correct obvious errors in past Comments, or where comments have become inaccurate due to changes in cross-referenced provisions or other revisions. See, e.g., *Report of the California Law Revision Commission on Corrected Probate Code Comments*, Appendix 8 to the *Annual Report for 1991*, 21 Cal. L. Revision Comm'n Reports 1, 75 (1991).

A Comment indicates the derivation of a section and often explains its purpose, its relation to other sections, and potential issues concerning its meaning or application. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions.¹⁷ However, while the Commission endeavors in Comments to explain any changes in the law made by a section, the Commission does not claim that every inconsistent case is noted in the Comments, nor can it anticipate judicial conclusions as to the significance of existing case authorities.¹⁸ Hence, failure to note a change in prior law or to refer to an inconsistent judicial decision is not intended to, and should not, influence the construction of a clearly stated statutory provision.¹⁹

Comments are provided to legislative committee members and staff before a bill is heard and throughout the legislative process. Comments are provided to the Governor's office once a bill has passed the Legislature and is before the Governor for action.

Publications

Commission materials and publications are distributed to the Governor, legislative leadership, and, on request, to heads of state departments, and to interest groups, lawyers, law professors,

17. E.g., *Van Arsdale v. Hollinger*, 68 Cal. 2d 245, 249-50, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968); see also *Milligan v. City of Laguna Beach*, 34 Cal. 3d 829, 831, 670 P.2d 1121, 1122, 196 Cal. Rptr. 38, 39 (1983); *Juran v. Epstein*, 23 Cal. App. 4th 882, 893-94, 28 Cal. Rptr. 2d 588, 594 (1994). The Commission concurs with the opinion of the court in *Juran* that staff memorandums to the Commission should not be considered as legislative history. *Id.* at 894 n.5, 28 Cal. Rptr. 2d at 594 n.5.

Commission Comments are published by Bancroft-Whitney Company and West Publishing Company in their print and CD-ROM editions of the annotated codes, and printed in selected codes prepared by other publishers. Comments are also available on Westlaw and Lexis.

18. See, e.g., *Arellano v. Moreno*, 33 Cal. App. 3d 877, 109 Cal. Rptr. 421 (1973).

19. The Commission does not concur in the *Kaplan* approach to statutory construction. See *Kaplan v. Superior Court*, 6 Cal. 3d 150, 158-59, 491 P.2d 1, 5-6, 98 Cal. Rptr. 649, 653-54 (1971). For a reaction to the problem created by the *Kaplan* approach, see *Recommendation Relating to Erroneously Ordered Disclosure of Privileged Information*, 11 Cal. L. Revision Comm'n Reports 1163 (1973). See also 1974 Cal. Stat. ch. 227.

courts, district attorneys, and law libraries throughout the state.²⁰ Thus, a large and representative number of interested persons is given an opportunity to study and comment on the Commission's work before it is considered for enactment by the Legislature.²¹

The Commission's reports, recommendations, and studies are republished in hardcover volumes that serve as a permanent record of the Commission's work and, it is believed, a valuable contribution to the legal literature of California. These volumes are available at many county law libraries and at some other libraries. Half of the hardcover volumes are out of print, but others are available for purchase.²²

Electronic Publication and Internet Access

Since June 1995, the Commission has provided a variety of information on the Internet, including online material and downloadable files.²³ Interested persons with Internet access can find current agendas, meeting minutes, background studies, tentative and final recommendations, staff memorandums, and general background information.

Electronic Mail

Email commenting on Commission proposals or suggesting issues for consideration is given the same consideration as letter correspondence, if the email message includes the name and regular mailing address of the sender. Email to the Commission may be sent to *commission@clrc.ca.gov* or to *staff@clrc.ca.gov*.

20. See Gov't Code § 8291. For availability see "Commission Publications" *infra* pp. 635-36.

21. For a step-by-step description of the procedure followed by the Commission in preparing the 1963 governmental liability statute, see DeMouly, *Fact Finding for Legislation: A Case Study*, 50 A.B.A. J. 285 (1964). The procedure followed in preparing the Evidence Code is described in 7 Cal. L. Revision Comm'n Reports 3 (1965). See also Quillinan, *The Role and Procedures of the California Law Revision Commission in Probate and Trust Law Changes*, 8 Est. Plan. & Cal. Prob. Rep. 130-31 (Cal. Cont. Ed. Bar 1987).

22. See "Commission Publications" *infra* pp. 635-56.

23. The URL for the Commission's website is <http://www.clrc.ca.gov/>.

The Commission distributes over a third of its tentative and final meeting agendas through email and also gives notice of the availability of tentative recommendations and printed reports by email. The Commission encourages use of email as an inexpensive and expedient means of communication with the Commission.

Personnel of Commission

The following persons are members of the Law Revision Commission, as of November 13, 1997:

| Members Appointed by Governor ²⁴ | <i>Term Expires</i> |
|--|----------------------------|
| Christine W.S. Byrd, Esq., Los Angeles <i>Chairperson</i> | October 1, 1997 |
| Edwin K. Marzec, Esq., Santa Monica <i>Vice Chairperson</i> | October 1, 1999 |
| Robert E. Cooper, Esq., Los Angeles | October 1, 1999 |
| Allan L. Fink, Esq., San Francisco | October 1, 1997 |
| Hon. Arthur K. Marshall, Los Angeles | October 1, 1999 |
| Sanford M. Skaggs, Esq., Walnut Creek | October 1, 1997 |
| Colin W. Wied, Esq., San Diego | October 1, 1999 |

Legislative Members ²⁵

Senator Quentin L. Kopp, San Francisco
Assemblyman Dick Ackerman, Fullerton

Legislative Counsel ²⁶

Bion M. Gregory, Sacramento

Effective September 1, 1997, the Commission elected Christine W.S. Byrd as Chairperson (succeeding Allan L. Fink), and Edwin K. Marzec as Vice Chairperson (succeeding Christine W.S. Byrd). The terms of the new officers end August 31, 1998.

24. Seven Commission members are appointed by the Governor with the advice and consent of the Senate. Gov't Code § 8281. These Commissioners serve staggered four-year terms. *Id.* The provision in Government Code Section 8281 to the effect that Commission members appointed by the Governor hold office until the appointment and qualification of their successors has been superseded by the rule in Government Code Section 1774 declaring a vacancy if there is no reappointment 60 days following expiration of the term of office. See also Gov't Code § 1774.7 (Section 1774 overrides contrary special rules unless specifically excepted).

25. The Senate and Assembly members of the Commission serve at the pleasure of their respective appointing powers, the Senate Committee on Rules and the Speaker of the Assembly. Gov't Code § 8281.

26. The Legislative Counsel serves on the Commission by virtue of office. Gov't Code § 8281.

The following persons are on the Commission's staff:

Legal

| | | |
|----------------------------|--------------------------------------|----------------------|
| Nathaniel Sterling | Stan Ulrich | |
| <i>Executive Secretary</i> | <i>Assistant Executive Secretary</i> | |
| Barbara S. Gaal | Brian P. Hebert | Robert J. Murphy |
| <i>Staff Counsel</i> | <i>Staff Counsel</i> | <i>Staff Counsel</i> |

Administrative-Secretarial

| | |
|---------------------------------|--------------------|
| Lauren M. Trevathan | Victoria V. Matias |
| <i>Administrative Assistant</i> | <i>Secretary</i> |

During the spring 1997 law school term, Elizabeth Eberle and Deborah J. Muns, students at Stanford Law School, continued working as student legal assistants under the work-study program. Thomas H. Halpern, a student at Stanford Law School, worked as a volunteer student legal assistant during part of the summer and has continued as a student legal assistant under the work-study program during the fall. During the spring 1997 law school term, Tina Chen and Chad Tang assisted the Commission as part of the Public Service Program of the University of Pennsylvania Law School.

Commission Budget

The Commission's operations are funded from the state general fund. The amount appropriated to the Commission for the 1997-98 fiscal year is \$597,000. This amount represents an increase over the previous year's funding, designed to accommodate the increased workload of major priority studies assigned to the Commission by the Legislature.

The Commission receives substantial donations of necessary library materials from the legal publishing community, especially Bancroft-Whitney Company, California Continuing Education of the Bar, and West Publishing Company. The Commission receives additional library materials from other legal publishers and from other law reform agencies on an exchange basis, and has full access to the Stanford University Law Library. The Commission is grateful for their contributions.

Other Activities

The Commission is directed by statute to cooperate with bar associations and other learned, professional, or scientific associations, institutions, or foundations in any manner suitable for the fulfillment of the purposes of the Commission.²⁷

Commissioner Activities

Commissioner Arthur K. Marshall addressed the Westside Rotary Club in September 1997 on "The History of the California Law Revision Commission."

National Conference of Commissioners on Uniform State Laws²⁸

The Commission's Executive Secretary participated in the National Conference of Commissioners on Uniform State Laws, in Sacramento, July 25-31, 1997. Matters considered at the conference included uniform acts on principal and income, guardianship and protective proceedings, and Uniform Commercial Code Articles 1, 2, 2B, and 9.

The Executive Secretary also served on the drafting committee for a new Uniform Trust Act. The uniform act will be based on the California Trust Law, a national model enacted on recommendation of the Commission.²⁹

California Continuing Education of the Bar

The Commission's Executive Secretary prepared the introductory chapter for the new edition of the book published by the California Continuing Education of the Bar, *California Administrative Hearing Practice* (2d ed. 1997). The new edition reflects enact-

27. Gov't Code § 8296.

28. The Commission is directed by statute to receive and consider proposed changes in the law recommended by the National Conference of Commissioners on Uniform State Laws. Gov't Code § 8289. The Commission's executive secretary is an associate member of the National Conference.

29. See *Recommendation Proposing the Trust Law*, 18 Cal. L. Revision Comm'n Reports 501 (1986); enacted 1986 Cal. Stat. ch. 820. See also 18 Cal. L. Revision Comm'n Reports 1207 (1986) (Trust Law as enacted, with revised Comments).

ment of the Commission's recommendation on administrative adjudication by state agencies.³⁰

Bar Associations

The Commission's Executive Secretary met with the Executive Committee of the State Bar Environmental Law Section in June 1997 to provide information on the Commission's study of consolidation of the state environmental laws.

The Commission's Assistant Executive Secretary, along with Professor David English, a Commission consultant, met with a working group from the Executive Committee of the State Bar Estate Planning, Trust and Probate Law Section in August 1997 in connection with the Commission's study of health care decision-making.

Consultant Activities

During 1997 the Commission's consultant on administrative law and procedure, Professor Michael Asimow, has drawn heavily on his experience in the Commission's administrative adjudication study to prepare materials for the South Africa Parliament's adoption of an Administrative Justice Act, required by the new South African Constitution. Professor Asimow also has drawn on this experience in his work in Australia, comparing California's administrative law judge system with Australia's independent tribunal system.

30. See *Administrative Adjudication by State Agencies*, 25 Cal. L. Revision Comm'n Reports 55 (1995), enacted as 1995 Cal. Stat. ch. 938 (SB 523). See also *Annual Report for 1995*, Appendix 7, 25 Cal. L. Revision Comm'n Reports 615, 711 (1995).

Legislative History of Recommendations Submitted to 1997 Legislative Session

The Commission's recommendations were included in 10 bills and a concurrent resolution recommended for enactment at the 1997 legislative session. Four of these bills were enacted and the concurrent resolution was adopted. Five bills are two-year bills and will be considered in the 1998 legislative session.³¹ One bill was not enacted.

Administrative Adjudication by Quasi-Public Entities

Senate Bill 68 (1997 Cal. Stat. ch. 220) was introduced by Senator Quentin L. Kopp to effectuate a Commission recommendation. See *Administrative Adjudication by Quasi-Public Entities*, 26 Cal. L. Revision Comm'n Reports 277 (1996). The bill was enacted after a number of amendments were made. See *Report of the California Law Revision Commission on Chapter 220 of the Statutes of 1997 (Senate Bill 68)*, 27 Cal. L. Revision Comm'n Reports 593 (1997) (Appendix 4 *infra* pp. 593-94).

Attachment by Undersecured Creditors

Assembly Bill 1258 (1997 Cal. Stat. ch. 222) was introduced by Assembly Member Dick Ackerman to effectuate a Commission recommendation. See *Attachment by Undersecured Creditors*, 26 Cal. L. Revision Comm'n Reports 307 (1996). The recommendation was enacted without change. (Note that the bill also contained a provision (Code Civ. Proc. § 483.012) sponsored by the Business Law Section of the California State Bar that was not part of the Commission's recommendation.)

Mediation Confidentiality

Assembly Bill 939 (1997 Cal. Stat. ch. 772) was introduced by Assembly Member Deborah Ortiz, and coauthored by Assembly Member Dick Ackerman, to effectuate a Commission recommen-

31. The two-year bills are: SB 177 (Kopp) (best evidence rule); SB 209 & SB 261 (Kopp) (judicial review of agency action); SB 453 (Solis) (administrative law judge code of ethics) (originally SB 653 (Calderon)); AB 707 (Ackerman) (real property covenants).

ation. See *Mediation Confidentiality*, 26 Cal. L. Revision Comm'n Reports 407 (1996). The bill was enacted after a number of amendments were made. See *Report of the California Law Revision Commission on Chapter 772 of the Statutes of 1997 (Assembly Bill 939)*, 27 Cal. L. Revision Comm'n Reports 595 (1997) (Appendix 5 *infra* pp. 595-621).

Civil Procedure

Senate Bill 73 (1997 Cal. Stat. ch. 892) was introduced by Senator Quentin L. Kopp, and included two technical amendments recommended by the Commission. See *Tolling Statute of Limitations When Defendant Is Out of State*, 26 Cal. L. Revision Comm'n Reports 83, 98-102 (1996). The recommended amendments were enacted with minor revisions. See *Report of the California Law Revision Commission on Chapter 892 of the Statutes of 1997 (Senate Bill 73)*, 27 Cal. L. Revision Comm'n Reports 623 (1997) (Appendix 6 *infra* p. 623).

Unfair Competition Litigation

Senate Bill 143 was introduced by Senator Quentin L. Kopp to effectuate a Commission recommendation. See *Unfair Competition Litigation*, 26 Cal. L. Revision Comm'n Reports 191 (1996). The bill failed passage in the Senate Judiciary Committee.

Resolution Authorizing Topics for Study

Senate Concurrent Resolution 3 (1997 Cal. Stat. res. ch. 102) was introduced by Senator Quentin L. Kopp. It continues the Commission's authority to study 21 topics previously authorized.

Report on Public Utility Deregulation

In 1996, the Legislature directed the Law Revision Commission to work with the Public Utilities Commission:³²

On or before June 30, 1997, the Public Utilities Commission in consultation with the Law Revision Commission shall submit a report to the Legislature on needed revisions of the Public Utilities Code that result from the restructuring of the

32. 1996 Cal. Stat. ch. 856, § 12.

electrical, gas, transportation, and telecommunications industries.

Pursuant to this directive the Law Revision Commission submitted its report to the Legislature in June 1997. See *Public Utility Deregulation*, 27 Cal. L. Revision Comm'n Reports 439 (1997).³³

Report on Statutes Repealed by Implication or Held Unconstitutional

Government Code Section 8290 provides:

The commission shall recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the Supreme Court of the state or the Supreme Court of the United States.

Pursuant to this directive, the Commission has reviewed the decisions of the United States Supreme Court and the California Supreme Court published since the Commission's last Annual Report was prepared³⁴ and has the following to report:

- No decision holding a state statute repealed by implication has been found.
- No decision of the United States Supreme Court holding a state statute unconstitutional has been found.
- Two decisions of the California Supreme Court holding a state statute unconstitutional have been found.

In *American Academy of Pediatrics v. Lungren*,³⁵ the court found that the provisions of Assembly Bill 2274 of the 1987-1988 Regular Session,³⁶ requiring the consent of a parent or guardian or

33. The report to the Legislature was delivered on June 12, 1997. The final published report will contain some additional commentary from the Public Utilities Commission.

34. This study has been carried through 16 Cal. 4th 829 and 117 S. Ct. (1996-97 Term).

35. 16 Cal. 4th 307, 940 P.2d 797, 66 Cal. Rptr. 2d 210 (1997).

36. See 1987 Cal. Stat. ch. 1237. This chapter amended Civil Code Section 34.5 (repealed and reenacted without substantive change as Fam. Code § 6925; see 1992 Cal. Stat. ch. 162, § 10; 1993 Cal. Stat. ch. 219, § 2); added Section 25958 to the Health and Safety Code (repealed and reenacted without substantive change as Health & Safety Code § 123450; see 1995 Cal. Stat. ch. 415, §§

an order of the juvenile court before a minor may receive an abortion, violate the right of privacy guaranteed by the California Constitution.³⁷

In *Professional Engineers in California Government v. Department of Transportation*,³⁸ the court concluded that provisions of Chapter 433 of the Statutes of 1993,³⁹ purporting to authorize Caltrans to contract privately for engineering and inspection work, are invalid to the extent that they conflict with the California Constitution's prohibition against private contracting by state agencies for work that state employees can perform adequately and competently.⁴⁰

Recommendations

The Law Revision Commission respectfully recommends that the Legislature authorize the Commission to complete its study of the topics previously authorized.⁴¹

Pursuant to the mandate imposed by Government Code Section 8290, the Commission recommends the repeal of the provisions referred to under "Report on Statutes Repealed by Implication or Held Unconstitutional," *supra*, to the extent they have been held unconstitutional and have not been amended or repealed.

8, 161); attempted to amend Welfare and Institutions Code Section 317 (amendment failed to become operative due to the repeal and addition of Section 317 by 1987 Cal. Stat. ch. 1485, §§ 20, 21); and attempted to repeal Welfare and Institutions Code Section 318 (repeal failed to become operative due to the repeal and addition of Section 318 by 1987 Cal. Stat. ch. 1485, §§ 22, 23).

37. Cal. Const. art. I, § 1.

38. 15 Cal. 4th 543, 936 P.2d 473, 63 Cal. Rptr. 2d 467 (1997).

39. See 1993 Cal. Stat. ch. 433. This chapter affects Government Code Sections 14130, 14130.1, 14130.2, 14130.3, 14132, 14136, 14137, and 14524, and Public Contract Code Section 2053.

40. This "civil service mandate" is implied from Cal. Const. art. VII, § 1. See *Professional Engineers in California Government*, 15 Cal. 4th at 548-50, 936 P.2d at 475-77, 63 Cal. Rptr. 2d at 469-71.

41. See "Calendar of Topics Authorized for Study," Appendix 2 *infra* pp. 565-68.

APPENDIX 1

STATUTE GOVERNING THE CALIFORNIA LAW REVISION COMMISSION

GOVERNMENT CODE SECTIONS 8280-8298*

§ 8280. Creation

8280. There is created in the State Government the California Law Revision Commission.

§ 8281. Membership

8281. The commission consists of one Member of the Senate appointed by the Committee on Rules, one Member of the Assembly appointed by the Speaker, and seven additional members appointed by the Governor with the advice and consent of the Senate. The Legislative Counsel shall be an ex officio member of the commission.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this article, those Members of the Legislature shall constitute a joint interim investigating committee on the subject of this article and as a joint interim investigating committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.

The members appointed by the Governor shall be appointed for a term of four years and shall hold office until the

* Added by 1984 Cal. Stat. ch. 1335, § 2; see also 1985 Cal. Stat. ch. 106, § 45 (amending Section 8295); 1989 Cal. Stat. ch. 152, § 1 (adding Section 8298). Formerly Gov't Code §§ 10300-10340, added by 1953 Cal. Stat. ch. 1445, § 2; amended by 1960 Cal. Stat. ch. 61, § 1 (1st Ex. Sess.); 1965 Cal. Stat. ch. 371, § 110; 1978 Cal. Stat. ch. 228, § 1; 1981 Cal. Stat. ch. 1106, § 2.

appointment and qualification of their successors. The terms of the members first appointed shall not commence earlier than October 1, 1953, and shall expire as follows: four on October 1, 1955, and three on October 1, 1957. When a vacancy occurs in any office filled by appointment by the Governor, he or she shall appoint a person to the office, who shall hold office for the balance of the unexpired term of his or her predecessor.

Note. The provision in the third paragraph to the effect that Commission members appointed by the Governor hold office until appointment and qualification of their successors is superseded by the rule in Government Code Section 1774 declaring a vacancy if there is no reappointment 60 days following expiration of the term of office. See also Gov't Code § 1774.7 (Section 1774 overrides contrary special rules unless specifically excepted).

§ 8282. Compensation and expenses

8282. (a) The members of the commission shall serve without compensation, except that each member appointed by the Governor shall receive fifty dollars (\$50) for each day's attendance at a meeting of the commission.

(b) In addition, each member shall be allowed actual expenses incurred in the discharge of his or her duties, including travel expenses.

Note. Government Code Section 11564.5 provides a per diem compensation of \$100, notwithstanding any other provision of law.

§ 8283. Chairperson

8283. The commission shall select one of its members chairperson.

§ 8284. Executive secretary

8284. The commission may appoint an executive secretary and fix his or her compensation, in accordance with law.

§ 8285. Employees

8285. The commission may employ and fix the compensation, in accordance with law, of such professional, clerical and other assistants as may be necessary.

§ 8286. Assistance of state

8286. The material of the State Library shall be made available to the commission. All state agencies, and other official state organizations, and all persons connected therewith shall give the commission full information, and reasonable assistance in any matters of research requiring recourse to them, or to data within their knowledge or control.

§ 8287. Assistance of bar

8287. The Board of Governors of the State Bar shall assist the commission in any manner the commission may request within the scope of its powers or duties.

§ 8288. Political activities of commissioners and staff

8288. No employee of the commission and no member appointed by the Governor shall, with respect to any proposed legislation concerning matters assigned to the commission for study pursuant to Section 8293, advocate the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature as to such matters unless requested to do so by the committee or its chairperson. In no event shall an employee or member of the commission appointed by the Governor advocate the passage or defeat of any legislation or the approval or veto of any legislation by the Governor, in his or her official capacity as an employee or member.

§ 8289. Duties of commission

8289. The commission shall, within the limitations imposed by Section 8293:

(a) Examine the common law and statutes of the state and judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms.

(b) Receive and consider proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies.

(c) Receive and consider suggestions from judges, justices, public officials, lawyers, and the public generally as to defects and anachronisms in the law.

(d) Recommend, from time to time, such changes in the law as it deems necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state into harmony with modern conditions.

§ 8290. Unconstitutional and impliedly repealed statutes

8290. The commission shall recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the Supreme Court of the state or the Supreme Court of the United States.

§ 8291. Submission and distribution of reports

8291. The commission shall submit its reports, and its recommendations as to revision of the laws, to the Governor and the Legislature, and shall distribute them to the Governor, the Members of the Legislature, and the heads of all state departments.

Note. Section 8291 is limited by later-enacted rules governing distribution of state reports set out in Government Code Sections 9795 and 11094-11099.

§ 8292. Contents of reports

8292. The commission may, within the limitations imposed by Section 8293, include in its report the legislative measures proposed by it to effect the adoption or enactment of the proposed revision. The reports may be accompanied by exhibits of various changes, modifications, improvements, and suggested enactments prepared or proposed by the commission with a full and accurate index thereto.

§ 8293. Calendar of topics

8293. The commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress and a list of topics intended for future consideration. After the filing of its first report the commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report which are thereafter approved for its study by concurrent resolution of the Legislature. The commission shall also study any topic which the Legislature, by concurrent resolution, refers to it for the study.

§ 8294. Printing of reports

8294. The reports, exhibits, and proposed legislative measures shall be printed by the State Printing Office under the supervision of the commission. The exhibits shall be so printed as to show in the readiest manner the changes and repeals proposed by the commission.

§ 8295. Cooperation with legislative committees

8295. The commission shall confer and cooperate with any legislative committee on revision of the law and may contract with any committee for the rendition of service, by either for the other, in the work of revision.

§ 8296. Cooperation with bar and other associations

8296. The commission may cooperate with any bar association or other learned, professional, or scientific association, institution or foundation in any manner suitable for the fulfillment of the purposes of this article.

§ 8297. Research contracts

8297. The commission may, with the approval of the Director of General Services, enter into, amend and terminate contracts with colleges, universities, schools of law or other research institutions, or with qualified individuals for the purposes of research.

§ 8298. Recommendations concerning minor revisions

8298. The commission may study and recommend revisions to correct technical or minor substantive defects in the statutes of the state without a prior concurrent resolution of the Legislature referring the matter to it for study.

APPENDIX 2

CALENDAR OF TOPICS AUTHORIZED FOR STUDY

The Commission's calendar of topics authorized for study includes the subjects listed below. Each of these topics has been authorized for Commission study by the Legislature. For the current authorizing resolution, see 1997 Cal. Stat. res. ch. 102.

1. Creditors' remedies. Whether the law should be revised that relates to creditors' remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters.¹

2. Probate Code. Whether the California Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code.²

3. Real and personal property. Whether the law should be revised that relates to real and personal property, including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon assignment, subletting, termination, or abandonment of a lease, powers of appointment, and related matters.³

4. Family law. Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption,

1. See also 1983 Cal. Stat. res. ch. 40; 1974 Cal. Stat. res. ch. 45; 1972 Cal. Stat. res. ch. 27; 1957 Cal. Stat. res. ch. 202; 1 Cal. L. Revision Comm'n Reports, Annual Report for 1957, at 15-16 (1957).

2. See also 1980 Cal. Stat. res. ch. 37.

3. See 1983 Cal. Stat. res. ch. 40, consolidating various previously authorized aspects of real and personal property law into one comprehensive topic. Expanded in 1988 Cal Stat. res. ch. 81.

guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code.⁴

5. Class actions. Whether the law relating to class actions should be revised.⁵

6. Offers of compromise. Whether the law relating to offers of compromise should be revised.⁶

7. Discovery in civil cases. Whether the law relating to discovery in civil cases should be revised.⁷

8. Procedure for removal of invalid liens. Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for the payment of attorneys' fees to the prevailing party.⁸

9. Special assessments for public improvements. Whether the acts governing special assessments for public improvement should be simplified and unified.⁹

10. Rights and disabilities of minors and incompetent persons. Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised.¹⁰

11. Evidence. Whether the Evidence Code should be revised.¹¹

12. Arbitration. Whether the law relating to arbitration should be revised.¹²

4. See 1997 Cal. Stat. res. ch. 102, consolidating Family Code authority, child custody, adoption, and guardianship authority, and family law proceedings authority. See also 1995 Cal. Stat. res. ch. 87; 1989 Cal. Stat. res. ch. 70; 1983 Cal. Stat. res. ch. 40; 1978 Cal. Stat. res. ch. 65; 1972 Cal. Stat. res. ch. 27; 1956 Cal. Stat. res. ch. 42.

5. See also 1975 Cal. Stat. res. ch. 15; 12 Cal. L. Revision Comm'n Reports 524-25 (1974.).

6. See also 1975 Cal. Stat. res. ch. 15; 12 Cal. L. Revision Comm'n Reports 525-26 (1974.).

7. See also 1975 Cal. Stat. res. ch. 15; 12 Cal. L. Revision Comm'n Reports 526-28 (1974.).

8. See also 1980 Cal. Stat. res. ch. 37.

9. See also 1980 Cal. Stat. res. ch. 37.

10. See also 1979 Cal. Stat. res. ch. 19; 14 Cal. L. Revision Comm'n Reports 217-18 (1978).

11. See also 1965 Cal. Stat. res. ch. 130.

12. See also 1968 Cal. Stat. res. ch. 110; 8 Cal. L. Revision Comm'n Reports 1325-26 (1967).

13. Administrative law. Whether there should be changes to administrative law.¹³

14. Attorney's fees. Whether the law relating to the payment and the shifting of attorney's fees between litigants should be revised.¹⁴

15. Uniform Unincorporated Nonprofit Association Act. Whether the Uniform Unincorporated Nonprofit Association Act, or parts of that uniform act, and related provisions should be adopted in California.¹⁵

16. Unfair competition litigation. Whether the law governing unfair competition litigation under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code should be revised to clarify the scope of the chapter and to resolve procedural problems in litigation under the chapter, including the res judicata and collateral estoppel effect on the public of a judgment between the parties to the litigation, and related matters.¹⁶

17. Shareholders' rights and corporate director responsibilities. Whether the requirement of paragraph (2) of subdivision (b) of Section 800 of the Corporations Code that the plaintiff in a shareholder's derivative action must allege the plaintiff's efforts to secure board action or the reasons for not making the effort, the standard under Section 309 of the Corporations Code for protection of a director from liability for a good faith business judgment, and related provisions, should be revised.¹⁷

18. Trial court unification. Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification.¹⁸

19. Tolling statutes of limitation. Whether Section 351 of the Code of Civil Procedure, relating to tolling statutes of limitations while the defendant is out of state, and related matters, should be revised.¹⁹

20. Contract law. Whether the California law of contracts should be revised, including the law relating to the effect of electronic communica-

13. See also 1987 Cal. Stat. res. ch. 47.

14. See also 1995 Cal. Stat. res. ch. 87; 1988 Cal. Stat. res. ch. 20.

15. See also 1993 Cal. Stat. res. ch. 31.

16. See also 1993 Cal. Stat. res. ch. 31.

17. See also 1993 Cal. Stat. res. ch. 31.

18. See also 1995 Cal. Stat. res. ch. 87; 1993 Cal. Stat. res. ch. 96.

19. See also 1994 Cal. Stat. res. ch. 81; 23 Cal. L. Revision Comm'n Reports 915 (1993).

tions on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters.²⁰

21. Environmental law. Whether the laws within various codes relating to environmental quality and natural resources should be reorganized in order to simplify and consolidate relevant statutes, resolve inconsistencies between the statutes, and eliminate obsolete and unnecessarily duplicative statutes.²¹

20. See also 1996 Cal. Stat. res. ch. 38; 25 Cal. L. Revision Comm'n Reports 628-29 (1995).

21. See also 1996 Cal. Stat. res. ch. 38.

APPENDIX 3

LEGISLATIVE ACTION ON COMMISSION RECOMMENDATIONS

(Cumulative)

| Recommendation | Action by Legislature |
|--|--|
| 1. <i>Partial Revision of Education Code</i> , 1 Cal. L. Revision Comm'n Reports, Annual Report for 1954, at 12 (1957) | Enacted. 1955 Cal. Stat. chs. 799, 877 |
| 2. <i>Summary Distribution of Small Estates Under Probate Code Sections 640 to 646</i> , 1 Cal. L. Revision Comm'n Reports, Annual Report for 1954, at 50 (1957) | Enacted. 1955 Cal. Stat. ch. 1183 |
| 3. <i>Fish and Game Code</i> , 1 Cal. L. Revision Comm'n Reports, Annual Report for 1957, at 13 (1957) | Enacted. 1957 Cal. Stat. ch. 456 |
| 4. <i>Maximum Period of Confinement in a County Jail</i> , 1 Cal. L. Revision Comm'n Reports, at A-1 (1957) | Enacted. 1957 Cal. Stat. ch. 139 |
| 5. <i>Notice of Application for Attorney's Fees and Costs in Domestic Relations Actions</i> , 1 Cal. L. Revision Comm'n Reports, at B-1 (1957) | Enacted. 1957 Cal. Stat. ch. 540 |
| 6. <i>Taking Instructions to Jury Room</i> , 1 Cal. L. Revision Comm'n Reports, at C-1 (1957) | Not enacted. But see Code Civ. Proc. § 612.5, enacting substance of this recommendation |
| 7. <i>The Dead Man Statute</i> , 1 Cal. L. Revision Comm'n Reports, at D-1 (1957) | Not enacted. But recommendation accomplished in enactment of Evidence Code. See Comment to Evid. Code § 1261 |
| 8. <i>Rights of Surviving Spouse in Property Acquired by Decedent While Domiciled Elsewhere</i> , 1 Cal. L. Revision Comm'n Reports, at E-1 (1957) | Enacted. 1957 Cal. Stat. ch. 490 |
| 9. <i>The Marital "For and Against" Testimonial Privilege</i> , 1 Cal. L. Revision Comm'n Reports, at F-1 (1957) | Not enacted. But recommendation accomplished in enactment of Evidence Code. See Comment to Evid. Code § 970 |

| Recommendation | Action by Legislature |
|---|---|
| 10. <i>Suspension of the Absolute Power of Alienation</i> , 1 Cal. L. Revision Comm'n Reports, at G-1 (1957); 2 Cal. L. Revision Comm'n Reports, Annual Report for 1959, at 14 (1959) | Enacted. 1959 Cal. Stat. ch. 470 |
| 11. <i>Elimination of Obsolete Provisions in Penal Code Sections 1377 and 1378</i> , 1 Cal. L. Revision Comm'n Reports, at H-1 (1957) | Enacted. 1957 Cal. Stat. ch. 102 |
| 12. <i>Judicial Notice of the Law of Foreign Countries</i> , 1 Cal. L. Revision Comm'n Reports, at I-1 (1957) | Enacted. 1957 Cal. Stat. ch. 249 |
| 13. <i>Choice of Law Governing Survival of Actions</i> , 1 Cal. L. Revision Comm'n Reports, at J-1 (1957) | No legislation recommended |
| 14. <i>Effective Date of Order Ruling on a Motion for New Trial</i> , 1 Cal. L. Revision Comm'n Reports, at K-1 (1957); 2 Cal. L. Revision Comm'n Reports, Annual Report for 1959, at 16 (1959) | Enacted. 1959 Cal. Stat. ch. 468 |
| 15. <i>Retention of Venue for Convenience of Witnesses</i> , 1 Cal. L. Revision Comm'n Reports, at L-1 (1957) | Not enacted |
| 16. <i>Bringing New Parties Into Civil Actions</i> , 1 Cal. L. Revision Comm'n Reports, at M-1 (1957) | Enacted. 1957 Cal. Stat. ch. 1498 |
| 17. <i>Grand Juries</i> , 2 Cal. L. Revision Comm'n Reports, Annual Report for 1959, at 20 (1959) | Enacted. 1959 Cal. Stat. ch. 501 |
| 18. <i>Procedure for Appointing Guardians</i> , 2 Cal. L. Revision Comm'n Reports, Annual Report for 1959, at 21 (1959) | Enacted. 1959 Cal. Stat. ch. 500 |
| 19. <i>Appointment of Administrator in Quiet Title Action</i> , 2 Cal. L. Revision Comm'n Reports, Annual Report for 1959, at 29 (1959) | No legislation recommended |
| 20. <i>Presentation of Claims Against Public Entities</i> , 2 Cal. L. Revision Comm'n Reports, at A-1 (1959) | Enacted. 1959 Cal. Stat. chs. 1715, 1724, 1725, 1726, 1727, 1728; Cal. Const., art. XI, § 10 (1960) |
| 21. <i>Right of Nonresident Aliens to Inherit</i> , 2 Cal. L. Revision Comm'n Reports, at B-1 (1959); 11 Cal. L. Revision Comm'n Reports 421 (1973) | Enacted. 1974 Cal. Stat. ch. 425 |

| Recommendation | Action by Legislature |
|--|--|
| 22. <i>Mortgages to Secure Future Advances</i> , 2 Cal. L. Revision Comm'n Reports, at C-1 (1959) | Enacted. 1959 Cal. Stat. ch. 528 |
| 23. <i>Doctrine of Worthier Title</i> , 2 Cal. L. Revision Comm'n Reports, at D-1 (1959) | Enacted. 1959 Cal. Stat. ch. 122 |
| 24. <i>Overlapping Provisions of Penal and Vehicle Codes Relating to Taking of Vehicles and Drunk Driving</i> , 2 Cal. L. Revision Comm'n Reports, at E-1 (1959) | Not enacted. But see 1972 Cal. Stat. ch. 92, enacting substance of a portion of recommendation relating to drunk driving |
| 25. <i>Time Within Which Motion for New Trial May Be Made</i> , 2 Cal. L. Revision Comm'n Reports, at F-1 (1959) | Enacted. 1959 Cal. Stat. ch. 469 |
| 26. <i>Notice to Shareholders of Sale of Corporate Assets</i> , 2 Cal. L. Revision Comm'n Reports, at G-1 (1959) | Not enacted. But see Corp. Code §§ 1001, 1002, enacting substance of recommendation |
| 27. <i>Evidence in Eminent Domain Proceedings</i> , 3 Cal. L. Revision Comm'n Reports, at A-1 (1961) | Not enacted. But see Evid. Code § 810 <i>et seq.</i> enacting substance of recommendation |
| 28. <i>Taking Possession and Passage of Title in Eminent Domain Proceedings</i> , 3 Cal. L. Revision Comm'n Reports, at B-1 (1961) | Enacted. 1961 Cal. Stat. chs. 1612, 1613 |
| 29. <i>Reimbursement for Moving Expenses When Property Is Acquired for Public Use</i> , 3 Cal. L. Revision Comm'n Reports, at C-1 (1961) | Not enacted. But see Gov't Code § 7260 <i>et seq.</i> enacting substance of recommendation |
| 30. <i>Rescission of Contracts</i> , 3 Cal. L. Revision Comm'n Reports, at D-1 (1961) | Enacted. 1961 Cal. Stat. ch. 589 |
| 31. <i>Right to Counsel and Separation of Delinquent From Nondelinquent Minor In Juvenile Court Proceedings</i> , 3 Cal. L. Revision Comm'n Reports, at E-1 (1961) | Enacted. 1961 Cal. Stat. ch. 1616 |
| 32. <i>Survival of Actions</i> , 3 Cal. L. Revision Comm'n Reports, at F-1 (1961) | Enacted. 1961 Cal. Stat. ch. 657 |
| 33. <i>Arbitration</i> , Cal. L. Revision Comm'n Reports, at G-1 (1961) | Enacted. 1961 Cal. Stat. ch. 461 |
| 34. <i>Presentation of Claims Against Public Officers and Employees</i> , 3 Cal. L. Revision Comm'n Reports, at H-1 (1961) | Not enacted 1961. See recommendation to 1963 session (item 39 <i>infra</i>) which was enacted |

| Recommendation | Action by Legislature |
|---|--|
| 35. <i>Inter Vivos Marital Property Rights in Property Acquired While Domiciled Elsewhere</i> , 3 Cal. L. Revision Comm'n Reports, at I-1 (1961) | Enacted. 1961 Cal. Stat. ch. 636 |
| 36. <i>Notice of Alibi in Criminal Actions</i> , 3 Cal. L. Revision Comm'n Reports, at J-1 (1961) | Not enacted |
| 37. <i>Discovery in Eminent Domain Proceedings</i> , 4 Cal. L. Revision Comm'n Reports 701 (1963); 8 Cal. L. Revision Comm'n Reports 19 (1967) | Enacted. 1967 Cal. Stat. ch. 1104 |
| 38. <i>Tort Liability of Public Entities and Public Employees</i> , 4 Cal. L. Revision Comm'n Reports 801 (1963) | Enacted. 1963 Cal. Stat. ch. 1681 |
| 39. <i>Claims, Actions and Judgments Against Public Entities and Public Employees</i> , 4 Cal. L. Revision Comm'n Reports 1001 (1963) | Enacted. 1963 Cal. Stat. ch. 1715 |
| 40. <i>Insurance Coverage for Public Entities and Public Employees</i> , 4 Cal. L. Revision Comm'n Reports 1201 (1963) | Enacted. 1963 Cal. Stat. ch. 1682 |
| 41. <i>Defense of Public Employees</i> , 4 Cal. L. Revision Comm'n Reports 1301 (1963) | Enacted. 1963 Cal. Stat. ch. 1683 |
| 42. <i>Liability of Public Entities for Ownership and Operation of Motor Vehicles</i> , 4 Cal. L. Revision Comm'n Reports 1401 (1963); 7 Cal. L. Revision Comm'n Reports 401 (1965) | Enacted. 1965 Cal. Stat. ch. 1527 |
| 43. <i>Workmen's Compensation Benefits for Persons Assisting Law Enforcement or Fire Control Officer</i> , 4 Cal. L. Revision Comm'n Reports 1501 (1963) | Enacted. 1963 Cal. Stat. ch. 1684 |
| 44. <i>Sovereign Immunity — Amendments and Repeals of Inconsistent Statutes</i> , 4 Cal. L. Revision Comm'n Reports 1601 (1963) | Enacted. 1963 Cal. Stat. chs. 1685, 1686, 2029 |
| 45. <i>Evidence Code</i> , 7 Cal. L. Revision Comm'n Reports 1 (1965) | Enacted. 1965 Cal. Stat. ch. 299 |
| 46. <i>Claims and Actions Against Public Entities and Public Employees</i> , 7 Cal. L. Revision Comm'n Reports 401 (1965) | Enacted. 1965 Cal. Stat. ch. 653 |

| Recommendation | Action by Legislature |
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| 47. <i>Evidence Code Revisions</i> , 8 Cal. L. Revision Comm'n Reports 101 (1967) | Enacted in part. 1967 Cal. Stat. ch. 650. Balance enacted. 1970 Cal. Stat. ch. 69 |
| 48. <i>Evidence — Agricultural Code Revisions</i> , 8 Cal. L. Revision Comm'n Reports 201 (1967) | Enacted. 1967 Cal. Stat. ch. 262 |
| 49. <i>Evidence — Commercial Code Revisions</i> , 8 Cal. L. Revision Comm'n Reports 301 (1967) | Enacted. 1967 Cal. Stat. ch. 703 |
| 50. <i>Whether Damage for Personal Injury to a Married Person Should Be Separate or Community Property</i> , 8 Cal. L. Revision Comm'n Reports 401 (1967); 8 Cal. L. Revision Comm'n Reports 1385 (1967) | Enacted. 1968 Cal. Stat. chs. 457, 458 |
| 51. <i>Vehicle Code Section 17150 and Related Sections</i> , 8 Cal. L. Revision Comm'n Reports 501 (1967) | Enacted. 1967 Cal. Stat. ch. 702 |
| 52. <i>Additur</i> , 8 Cal. L. Revision Comm'n Reports 601 (1967) | Enacted. 1967 Cal. Stat. ch. 72 |
| 53. <i>Abandonment or Termination of a Lease</i> , 8 Cal. L. Revision Comm'n Reports 701 (1967); 9 Cal. L. Revision Comm'n Reports 401 (1969); 9 Cal. L. Revision Comm'n Reports 153 (1969) | Enacted. 1970 Cal. Stat. ch. 89 |
| 54. <i>Good Faith Improver of Land Owned by Another</i> , 8 Cal. L. Revision Comm'n Reports 801 (1967); 8 Cal. L. Revision Comm'n Reports 1373 (1967) | Enacted. 1968 Cal. Stat. ch. 150 |
| 55. <i>Suit By or Against an Unincorporated Association</i> , 8 Cal. L. Revision Comm'n Reports 901 (1967) | Enacted. 1967 Cal. Stat. ch. 1324 |
| 56. <i>Escheat</i> , 8 Cal. L. Revision Comm'n Reports 1001 (1967) | Enacted. 1968 Cal. Stat. chs. 247, 356 |
| 57. <i>Recovery of Condemnee's Expenses on Abandonment of an Eminent Domain Proceeding</i> , 8 Cal. L. Revision Comm'n Reports 1361 (1967) | Enacted. 1968 Cal. Stat. ch. 133 |
| 58. <i>Service of Process on Unincorporated Associations</i> , 8 Cal. L. Revision Comm'n Reports 1403 (1967) | Enacted. 1968 Cal. Stat. ch. 132 |

| Recommendation | Action by Legislature |
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| 59. <i>Sovereign Immunity — Statute of Limitations</i> , 9 Cal. L. Revision Comm'n Reports 49 (1969); 9 Cal. L. Revision Comm'n Reports 175 (1969) | Enacted. 1970 Cal. Stat. ch. 104 |
| 60. <i>Additur and Remittitur</i> , 9 Cal. L. Revision Comm'n Reports 63 (1969) | Enacted. 1969 Cal. Stat. ch. 115 |
| 61. <i>Fictitious Business Names</i> , 9 Cal. L. Revision Comm'n Reports 71 (1969) | Enacted. 1969 Cal. Stat. ch. 114 |
| 62. <i>Quasi-Community Property</i> , 9 Cal. L. Revision Comm'n Reports 113 (1969) | Enacted. 1970 Cal. Stat. ch. 312 |
| 63. <i>Arbitration of Just Compensation</i> , 9 Cal. L. Revision Comm'n Reports 123 (1969) | Enacted. 1970 Cal. Stat. ch. 417 |
| 64. <i>Revisions of Evidence Code</i> , 9 Cal. L. Revision Comm'n Reports 137 (1969) | Enacted in part. 1970 Cal. Stat. ch. 69. See also 1970 Cal. Stat. chs. 1396, 1397; 1972 Cal. Stat. ch. 888 |
| 65. <i>Mutuality of Remedies in Suits for Specific Performance</i> , 9 Cal. L. Revision Comm'n Reports 201 (1969) | Enacted. 1969 Cal. Stat. ch. 156 |
| 66. <i>Powers of Appointment</i> , 9 Cal. L. Revision Comm'n Reports 301 (1969) | Enacted. 1969 Cal. Stat. chs. 113, 155 |
| 67. <i>Evidence Code — Revisions of Privileges Article</i> , 9 Cal. L. Revision Comm'n Reports 501 (1969) | Vetoed. But see 1970 Cal. Stat. chs. 1396, 1397 |
| 68. <i>Fictitious Business Names</i> , 9 Cal. L. Revision Comm'n Reports 601 (1969) | Enacted. 1970 Cal. Stat. ch. 618 |
| 69. <i>Representation as to the Credit of Third Persons and the Statute of Frauds</i> , 9 Cal. L. Revision Comm'n Reports 701 (1969) | Enacted. 1970 Cal. Stat. ch. 720 |
| 70. <i>Revisions of Governmental Liability Act</i> , 9 Cal. L. Revision Comm'n Reports 801 (1969) | Enacted in part. 1970 Cal. Stat. chs. 662, 1099 |
| 71. <i>"Vesting" of Interests Under Rule Against Perpetuities</i> , 9 Cal. L. Revision Comm'n Reports 901 (1969) | Enacted. 1970 Cal. Stat. ch. 45 |
| 72. <i>Counterclaims and Cross-Complaints, Joinder of Causes of Action, and Related Provisions</i> , 10 Cal. L. Revision Comm'n Reports 501 (1971) | Enacted. 1971 Cal. Stat. chs. 244, 950. See also 1973 Cal. Stat. ch. 828 |

| Recommendation | Action by Legislature |
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| 73. <i>Wage Garnishment and Related Matters</i> , 10 Cal. L. Revision Comm'n Reports 701 (1971); 11 Cal. L. Revision Comm'n Reports 101 (1973); 12 Cal. L. Revision Comm'n Reports 901 (1974); 13 Cal. L. Revision Comm'n Reports 601 (1976); 13 Cal. L. Revision Comm'n Reports 1703 (1976); 14 Cal. L. Revision Comm'n Reports 261 (1978) | Enacted in part. 1978 Cal. Stat. ch. 1133. See also 1979 Cal. Stat. ch. 66 |
| 74. <i>Proof of Foreign Official Records</i> , 10 Cal. L. Revision Comm'n Reports 1022 (1971) | Enacted. 1970 Cal. Stat. ch. 41 |
| 75. <i>Inverse Condemnation — Insurance Coverage</i> , 10 Cal. L. Revision Comm'n Reports 1051 (1971) | Enacted. 1971 Cal. Stat. ch. 140 |
| 76. <i>Discharge From Employment Because of Wage Garnishment</i> , 10 Cal. L. Revision Comm'n Reports 1147 (1971) | Enacted. 1971 Cal. Stat. ch. 1607 |
| 77. <i>Civil Arrest</i> , 11 Cal. L. Revision Comm'n Reports 1 (1973) | Enacted. 1973 Cal. Stat. ch. 20 |
| 78. <i>Claim and Delivery Statute</i> , 11 Cal. L. Revision Comm'n Reports 301 (1973) | Enacted. 1973 Cal. Stat. ch. 526 |
| 79. <i>Unclaimed Property</i> , 11 Cal. L. Revision Comm'n Reports 401 (1973); 12 Cal. L. Revision Comm'n Reports 609 (1974) | Proposed resolution enacted. 1973 Cal. Stat. res. ch. 76. Legislation enacted. 1975 Cal. Stat. ch. 25 |
| 80. <i>Enforcement of Sister State Money Judgments</i> , 11 Cal. L. Revision Comm'n Reports 451 (1973) | Enacted. 1974 Cal. Stat. ch. 211 |
| 81. <i>Prejudgment Attachment</i> , 11 Cal. L. Revision Comm'n Reports 701 (1973) | Enacted. 1974 Cal. Stat. ch. 1516. See also 1975 Cal. Stat. ch. 200 |
| 82. <i>Landlord-Tenant Relations</i> , 11 Cal. L. Revision Comm'n Reports 951 (1973) | Enacted. 1974 Cal. Stat. chs. 331, 332 |
| 83. <i>Pleading</i> (technical change), 11 Cal. L. Revision Comm'n Reports 1024 (1973) | Enacted. 1972 Cal. Stat. ch. 73 |
| 84. <i>Evidence — Judicial Notice</i> (technical change), 11 Cal. L. Revision Comm'n Reports 1025 (1973) | Enacted. 1972 Cal. Stat. ch. 764 |
| 85. <i>Evidence — "Criminal Conduct" Exception</i> , 11 Cal. L. Revision Comm'n Reports 1147 (1973) | Not enacted 1974. See recommendation to 1975 session (item 90 <i>infra</i>) which was enacted |

| Recommendation | Action by Legislature |
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| 86. <i>Erroneously Compelled Disclosure of Privileged Information</i> , 11 Cal. L. Revision Comm'n Reports 1163 (1973) | Enacted. 1974 Cal. Stat. ch. 227 |
| 87. <i>Liquidated Damages</i> , 11 Cal. L. Revision Comm'n Reports 1201 (1973); 13 Cal. L. Revision Comm'n Reports 2139 (1976); 13 Cal. L. Revision Comm'n Reports 1735 (1976) | Enacted. 1977 Cal. Stat. ch. 198 |
| 88. <i>Payment of Judgments Against Local Public Entities</i> , 12 Cal. L. Revision Comm'n Reports 575 (1974) | Enacted. 1975 Cal. Stat. ch. 285 |
| 89. <i>View by Trier of Fact in a Civil Case</i> , 12 Cal. L. Revision Comm'n Reports 587 (1974) | Enacted. 1975 Cal. Stat. ch. 301 |
| 90. <i>Good Cause Exception to the Physician-Patient Privilege</i> , 12 Cal. L. Revision Comm'n Reports 601 (1974) | Enacted. 1975 Cal. Stat. ch. 318 |
| 91. <i>Improvement Acts</i> , 12 Cal. L. Revision Comm'n Reports 1001 (1974) | Enacted. 1974 Cal. Stat. ch. 426 |
| 92. <i>The Eminent Domain Law</i> , 12 Cal. L. Revision Comm'n Reports 1601 (1974) | Enacted. 1975 Cal. Stat. chs. 1239, 1240, 1275 |
| 93. <i>Eminent Domain — Conforming Changes in Special District Statutes</i> , 12 Cal. L. Revision Comm'n Reports 1101 (1974); 12 Cal. L. Revision Comm'n Reports 2004 (1974) | Enacted. 1975 Cal. Stat. chs. 581, 582, 584, 585, 586, 587, 1176, 1276 |
| 94. <i>Oral Modification of Written Contracts</i> , 13 Cal. L. Revision Comm'n Reports 301 (1976); 13 Cal. L. Revision Comm'n Reports 2129 (1976) | Enacted. 1975 Cal. Stat. ch. 7; 1976 Cal. Stat. ch. 109 |
| 95. <i>Partition of Real and Personal Property</i> , 13 Cal. L. Revision Comm'n Reports 401 (1976) | Enacted. 1976 Cal. Stat. ch. 73 |
| 96. <i>Revision of the Attachment Law</i> , 13 Cal. L. Revision Comm'n Reports 801 (1976) | Enacted. 1976 Cal. Stat. ch. 437 |
| 97. <i>Undertakings for Costs</i> , 13 Cal. L. Revision Comm'n Reports 901 (1976) | Not enacted 1976. But see recommendation to 1979 session (item 118 <i>infra</i>) which was enacted |
| 98. <i>Admissibility of Copies of Business Records in Evidence</i> , 13 Cal. L. Revision Comm'n Reports 2051 (1976) | Not enacted |

| Recommendation | Action by Legislature |
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| 99. <i>Turnover Orders Under the Claim and Delivery Law</i> , 13 Cal. L. Revision Comm'n Reports 2079 (1976) | Enacted. 1976 Cal. Stat. ch. 145 |
| 100. <i>Relocation Assistance by Private Condemnors</i> , 13 Cal. L. Revision Comm'n Reports 2085 (1976) | Enacted. 1976 Cal. Stat. ch. 143 |
| 101. <i>Condemnation for Byroads and Utility Easements</i> , 13 Cal. L. Revision Comm'n Reports 2091 (1976) | Enacted in part (utility easements). 1976 Cal. Stat. ch. 994 |
| 102. <i>Transfer of Out-of-State Trusts to California</i> , 13 Cal. L. Revision Comm'n Reports 2101 (1976) | Enacted. 1976 Cal. Stat. ch. 144 |
| 103. <i>Admissibility of Duplicates in Evidence</i> , 13 Cal. L. Revision Comm'n Reports 2115 (1976) | Enacted. 1985 Cal. Stat. ch. 100 |
| 104. <i>Service of Process on Unincorporated Associations</i> , 13 Cal. L. Revision Comm'n Reports 1657 (1976) | Enacted. 1976 Cal. Stat. ch. 888 |
| 105. <i>Sister State Money Judgments</i> , 13 Cal. L. Revision Comm'n Reports 1669 (1976) | Enacted. 1977 Cal. Stat. ch. 232 |
| 106. <i>Damages in Action for Breach of Lease</i> , 13 Cal. L. Revision Comm'n Reports 1679 (1976) | Enacted. 1977 Cal. Stat. ch. 49 |
| 107. <i>Nonprofit Corporation Law</i> , 13 Cal. L. Revision Comm'n Reports 2201 (1976) | Not enacted. Legislation on this subject, not recommended by the Commission, was enacted in 1978 |
| 108. <i>Use of Keepers Pursuant to Writs of Execution</i> , 14 Cal. L. Revision Comm'n Reports 49 (1978) | Enacted. 1977 Cal. Stat. ch. 155 |
| 109. <i>Attachment Law — Effect of Bankruptcy Proceedings; Effect of General Assignments for the Benefit of Creditors</i> , 14 Cal. L. Revision Comm'n Reports 61 (1978) | Enacted. 1977 Cal. Stat. ch. 499 |
| 110. <i>Review of Resolution of Necessity by Writ of Mandate</i> , 14 Cal. L. Revision Comm'n Reports 83 (1978) | Enacted. 1978 Cal. Stat. ch. 286 |
| 111. <i>Use of Court Commissioners Under the Attachment Law</i> , 14 Cal. L. Revision Comm'n Reports 93 (1978) | Enacted. 1978 Cal. Stat. ch. 151 |

| Recommendation | Action by Legislature |
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| 112. <i>Evidence of Market Value of Property</i> , 14 Cal. L. Revision Comm'n Reports 105 (1978) | Enacted in part. 1978 Cal. Stat. ch. 294. Substance of remainder enacted in 1980. See item 127 <i>infra</i> |
| 113. <i>Psychotherapist-Patient Privilege</i> , 14 Cal. L. Revision Comm'n Reports 127 (1978); 15 Cal. L. Revision Comm'n Reports 1307 (1980) | Enacted in part. 1985 Cal. Stat. chs. 545 (licensed educational psychologist), 1077 (repeal of Evidence Code § 1028) |
| 114. <i>Parol Evidence Rule</i> , 14 Cal. L. Revision Comm'n Reports 143 (1978) | Enacted. 1978 Cal. Stat. ch. 150 |
| 115. <i>Attachment Law — Unlawful Detainer Proceedings; Bond for Levy on Joint Deposit Account or Safe Deposit Box; Definition of "Chose in Action,"</i> 14 Cal. L. Revision Comm'n Reports 241 (1978) | Enacted. 1978 Cal. Stat. ch. 273 |
| 116. <i>Powers of Appointment</i> (technical changes), 14 Cal. L. Revision Comm'n Reports 257 (1978) | Enacted. 1978 Cal. Stat. ch. 266 |
| 117. <i>Ad Valorem Property Taxes in Eminent Domain Proceedings</i> , 14 Cal. L. Revision Comm'n Reports 291 (1978) | Enacted. 1979 Cal. Stat. ch. 31 |
| 118. <i>Security for Costs</i> , 14 Cal. L. Revision Comm'n Reports 319 (1978) | Enacted. 1980 Cal. Stat. ch. 114 |
| 119. <i>Guardianship-Conservatorship Law</i> , 14 Cal. L. Revision Comm'n Reports 501 (1978); 15 Cal. L. Revision Comm'n Reports 451 (1980) | Enacted. 1979 Cal. Stat. chs. 165, 726, 730 |
| 120. <i>Effect of New Bankruptcy Law on the Attachment Law</i> , 15 Cal. L. Revision Comm'n Reports 1043 (1980) | Enacted. 1979 Cal. Stat. ch. 177 |
| 121. <i>Confessions of Judgment</i> , 15 Cal. L. Revision Comm'n Reports 1053 (1980) | Enacted. 1979 Cal. Stat. ch. 568 |
| 122. <i>Special Assessment Liens on Property Taken for Public Use</i> , 15 Cal. L. Revision Comm'n Reports 1101 (1980) | Enacted. 1980 Cal. Stat. ch. 122 |
| 123. <i>Assignments for the Benefit of Creditors</i> , 15 Cal. L. Revision Comm'n Reports 1117 (1980) | Enacted. 1980 Cal. Stat. ch. 135 |
| 124. <i>Vacation of Public Streets, Highways, and Service Easements</i> , 15 Cal. L. Revision Comm'n Reports 1137 (1980) | Enacted. 1980 Cal. Stat. ch. 1050 |

| Recommendation | Action by Legislature |
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| 125. <i>Quiet Title Actions</i> , 15 Cal. L. Revision Comm'n Reports 1187 (1980) | Enacted. 1980 Cal. Stat. ch. 44 |
| 126. <i>Agreements for Entry of Paternity and Support Judgments</i> , 15 Cal. L. Revision Comm'n Reports 1237 (1980) | Enacted. 1980 Cal. Stat. ch. 682 |
| 127. <i>Application of Evidence Code Property Valuation Rules in Noncondemnation Cases</i> , 15 Cal. L. Revision Comm'n Reports 301 (1980) | Enacted. 1980 Cal. Stat. ch. 381 |
| 128. <i>Probate Homestead</i> , 15 Cal. L. Revision Comm'n Reports 401 (1980) | Enacted. 1980 Cal. Stat. ch. 119 |
| 129. <i>Enforcement of Claims and Judgments Against Public Entities</i> , 15 Cal. L. Revision Comm'n Reports 1257 (1980) | Enacted. 1980 Cal. Stat. ch. 215 |
| 130. <i>Uniform Veterans Guardianship Act</i> , 15 Cal. L. Revision Comm'n Reports 1289 (1980) | Enacted. 1980 Cal. Stat. ch. 89 |
| 131. <i>Enforcement of Obligations After Death</i> , 15 Cal. L. Revision Comm'n Reports 1327 (1980) | Enacted. 1980 Cal. Stat. ch. 124 |
| 132. <i>Interest Rate on Judgments</i> , 15 Cal. L. Revision Comm'n Reports 7 (1980) | Enacted. 1982 Cal. Stat. ch. 150 |
| 133. <i>Married Women as Sole Traders</i> , 15 Cal. L. Revision Comm'n Reports 21 (1980) | Enacted. 1980 Cal. Stat. ch. 123 |
| 134. <i>State Tax Liens</i> , 15 Cal. L. Revision Comm'n Reports 29 (1980) | Enacted. 1980 Cal. Stat. ch. 600 |
| 135. <i>Guardianship-Conservatorship</i> (technical change), 15 Cal. L. Revision Comm'n Reports 1427 (1980) | Enacted. 1980 Cal. Stat. ch. 246 |
| 136. <i>Revision of Guardianship-Conservatorship Law</i> , 15 Cal. L. Revision Comm'n Reports 1463 (1980) | Enacted. 1981 Cal. Stat. ch. 9 |
| 137. <i>The Enforcement of Judgments Law</i> , 15 Cal. L. Revision Comm'n Reports 2001 (1980) | Enacted. 1982 Cal. Stat. chs. 497, 1364 |
| 138. <i>Uniform Durable Power of Attorney Act</i> , 15 Cal. L. Revision Comm'n Reports 351 (1980) | Enacted. 1981 Cal. Stat. ch. 511 |

| Recommendation | Action by Legislature |
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| 139. <i>Non-Probate Transfers</i> , 15 Cal. L. Revision Comm'n Reports 1605 (1980); 16 Cal. L. Revision Comm'n Reports 129 (1982) | Enacted in part (pay-on-death accounts) 1982 Cal. Stat. ch. 269; (credit unions and industrial loan companies) 1983 Cal. Stat. ch. 92. Substance of balance enacted. 1989 Cal. Stat. ch. 397 (banks and savings and loan associations) (item 229 <i>infra</i>) |
| 140. <i>Revision of the Powers of Appointment Statute</i> , 15 Cal. L. Revision Comm'n Reports 1667 (1980) | Enacted. 1981 Cal. Stat. ch. 63 |
| 141. <i>State Tax Liens</i> (technical change), 16 Cal. L. Revision Comm'n Reports 24 (1982) | Enacted. 1981 Cal. Stat. ch. 217 |
| 142. <i>Assessment Liens on Property Taken for Public Use</i> (technical change), 16 Cal. L. Revision Comm'n Reports 25 (1982) | Enacted. 1981 Cal. Stat. ch. 139 |
| 143. <i>Federal Pensions as Community Property</i> , 16 Cal. L. Revision Comm'n Reports 47 (1982) | Proposed resolution adopted. 1982 Cal. Stat. res. ch. 44 |
| 144. <i>Holographic and Nuncupative Wills</i> , 16 Cal. L. Revision Comm'n Reports 301 (1982) | Enacted. 1982 Cal. Stat. ch. 187 |
| 145. <i>Marketable Title of Real Property</i> , 16 Cal. L. Revision Comm'n Reports 401 (1982) | Enacted. 1982 Cal. Stat. ch. 1268 |
| 146. <i>Statutory Bonds and Undertakings</i> , 16 Cal. L. Revision Comm'n Reports 501 (1982) | Enacted. 1982 Cal. Stat. chs. 517, 998 |
| 147. <i>Attachment</i> , 16 Cal. L. Revision Comm'n Reports 701 (1982) | Enacted. 1982 Cal. Stat. ch. 1198 |
| 148. <i>Escheat</i> (technical change), 16 Cal. L. Revision Comm'n Reports 124 (1982) | Enacted. 1982 Cal. Stat. ch. 182 |
| 149. <i>Missing Persons</i> , 16 Cal. L. Revision Comm'n Reports 105 (1982) | Enacted. 1983 Cal. Stat. ch. 201 |
| 150. <i>Emancipated Minors</i> , 16 Cal. L. Revision Comm'n Reports 183 (1982) | Enacted. 1983 Cal. Stat. ch. 6 |
| 151. <i>Notice in Limited Conservatorship Proceedings</i> , 16 Cal. L. Revision Comm'n Reports 199 (1982) | Enacted. 1983 Cal. Stat. ch. 72 |

| Recommendation | Action by Legislature |
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| 152. <i>Disclaimer of Testamentary and Other Interests</i> , 16 Cal. L. Revision Comm'n Reports 207 (1982) | Enacted. 1983 Cal. Stat. ch. 17 |
| 153. <i>Wills and Intestate Succession</i> , 16 Cal. L. Revision Comm'n Reports 2301 (1982) | Enacted. 1983 Cal. Stat. ch. 842 |
| 154. <i>Division of Joint Tenancy and Tenancy in Common Property at Dissolution of Marriage</i> , 16 Cal. L. Revision Comm'n Reports 2165 (1982), 17 Cal. L. Revision Comm'n Reports 863 (1984) | Enacted. 1983 Cal. Stat. ch. 342 |
| 155. <i>Creditors' Remedies</i> , 16 Cal. L. Revision Comm'n Reports 2175 (1982) | Enacted. 1983 Cal. Stat. ch. 155 |
| 156. <i>Conforming Changes to the Bond and Undertaking Law</i> , 16 Cal. L. Revision Comm'n Reports 2239 (1982) | Enacted. 1983 Cal. Stat. ch. 18 |
| 157. <i>Notice of Rejection of Late Claim Against Public Entity</i> , 16 Cal. L. Revision Comm'n Reports 2251 (1982) | Enacted. 1983 Cal. Stat. ch. 107 |
| 158. <i>Liability of Marital Property for Debts</i> , 17 Cal. L. Revision Comm'n Reports 1 (1984) | Enacted. 1984 Cal. Stat. ch. 1671 |
| 159. <i>Durable Power of Attorney for Health Care Decisions</i> , 17 Cal. L. Revision Comm'n Reports 101 (1984) | Enacted. 1983 Cal. Stat. ch. 1204 |
| 160. <i>Effect of Death of Support Obligor</i> , 17 Cal. L. Revision Comm'n Reports 897 (1984) | Enacted in part. 1984 Cal. Stat. ch. 19. Balance enacted. 1985 Cal. Stat. ch. 362 (item 186 <i>infra</i>) |
| 161. <i>Vacation of Streets</i> (technical change), 17 Cal. L. Revision Comm'n Reports 825 (1984) | Enacted. 1983 Cal. Stat. ch. 52 |
| 162. <i>Marital Property Presumptions and Transmutations</i> , 17 Cal. L. Revision Comm'n Reports 205 (1984) | Enacted in part (transmutations). 1984 Cal. Stat. ch. 1733 |
| 163. <i>Reimbursement of Educational Expenses</i> , 17 Cal. L. Revision Comm'n Reports 229 (1984) | Enacted. 1984 Cal. Stat. ch. 1661 |
| 164. <i>Special Appearance in Family Law Proceedings</i> , 17 Cal. L. Revision Comm'n Reports 243 (1984) | Enacted. 1984 Cal. Stat. ch. 156 |

| Recommendation | Action by Legislature |
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| 165. <i>Liability of Stepparent for Child Support</i> , 17 Cal. L. Revision Comm'n Reports 251 (1984) | Enacted. 1984 Cal. Stat. ch. 249 |
| 166. <i>Awarding Temporary Use of Family Home</i> , 17 Cal. L. Revision Comm'n Reports 261 (1984) | Enacted. 1984 Cal. Stat. ch. 463 |
| 167. <i>Disposition of Community Property</i> , 17 Cal. L. Revision Comm'n Reports 269 (1984) | Not enacted |
| 168. <i>Statutes of Limitation for Felonies</i> , 17 Cal. L. Revision Comm'n Reports 301 (1984) | Enacted. 1984 Cal. Stat. ch. 1270 |
| 169. <i>Independent Administration of Decedent's Estate</i> , 17 Cal. L. Revision Comm'n Reports 405 (1984) | Enacted. 1984 Cal. Stat. ch. 451 |
| 170. <i>Distribution of Estates Without Administration</i> , 17 Cal. L. Revision Comm'n Reports 421 (1984) | Enacted. 1984 Cal. Stat. ch. 451 |
| 171. <i>Simultaneous Deaths</i> , 17 Cal. L. Revision Comm'n Reports 443 (1984) | Enacted in part. See 1989 Cal. Stat. ch. 544 (intestate succession) (item 227 <i>infra</i>); 1990 Cal. Stat. ch. 710 (statutory will) (item 240 <i>infra</i>) |
| 172. <i>Notice of Will</i> , 17 Cal. L. Revision Comm'n Reports 461 (1984) | Not enacted |
| 173. <i>Garnishment of Amounts Payable to Trust Beneficiary</i> , 17 Cal. L. Revision Comm'n Reports 471 (1984) | Enacted. 1984 Cal. Stat. ch. 493 |
| 174. <i>Bonds for Personal Representatives</i> , 17 Cal. L. Revision Comm'n Reports 483 (1984) | Enacted. 1984 Cal. Stat. ch. 451 |
| 175. <i>Recording Affidavits of Death</i> , 17 Cal. L. Revision Comm'n Reports 493 (1984) | Enacted. 1984 Cal. Stat. ch. 527 |
| 176. <i>Execution of Witnessed Will</i> , 17 Cal. L. Revision Comm'n Reports 509 (1984) | Not enacted |
| 177. <i>Revision of Wills and Intestate Succession Law</i> , 17 Cal. L. Revision Comm'n Reports 537 (1984) | Enacted. 1984 Cal. Stat. ch. 892 |
| 178. <i>Uniform Transfers to Minors Act</i> , 17 Cal. L. Revision Comm'n Reports 601 (1984) | Enacted. 1984 Cal. Stat. ch. 243 |

| Recommendation | Action by Legislature |
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| 179. <i>Statutory Forms for Durable Powers of Attorney</i> , 17 Cal. L. Revision Comm'n Reports 701 (1984) | Enacted. 1984 Cal. Stat. chs. 312 (health care), 602 (general power of attorney) |
| 180. <i>Dismissal for Lack of Prosecution</i> , 17 Cal. L. Revision Comm'n Reports 905 (1984) | Enacted. 1984 Cal. Stat. ch. 1705 |
| 181. <i>Severance of Joint Tenancy</i> , 17 Cal. L. Revision Comm'n Reports 941 (1984) | Enacted. 1984 Cal. Stat. ch. 519 |
| 182. <i>Quiet Title and Partition Judgments</i> , 17 Cal. L. Revision Comm'n Reports 947 (1984) | Enacted. 1984 Cal. Stat. ch. 20 |
| 183. <i>Dormant Mineral Rights</i> , 17 Cal. L. Revision Comm'n Reports 957 (1984) | Enacted. 1984 Cal. Stat. ch. 240 |
| 184. <i>Creditors' Remedies</i> , 17 Cal. L. Revision Comm'n Reports 975 (1984) | Enacted. 1984 Cal. Stat. ch. 538 |
| 185. <i>Rights Among Cotenants</i> , 17 Cal. L. Revision Comm'n Reports 1023 (1984) | Enacted. 1984 Cal. Stat. ch. 241 |
| 186. <i>Provision for Support if Support Obligor Dies</i> , 18 Cal. L. Revision Comm'n Reports 119 (1986) | Enacted. 1985 Cal. Stat. ch. 362 |
| 187. <i>Transfer of State Registered Property Without Probate</i> , 18 Cal. L. Revision Comm'n Reports 129 (1986) | Enacted. 1985 Cal. Stat. ch. 982 |
| 188. <i>Dividing Jointly Owned Property Upon Marriage Dissolution</i> , 18 Cal. L. Revision Comm'n Reports 147 (1986) | Enacted. 1985 Cal. Stat. ch. 362 |
| 189. <i>Probate Law</i> (clarifying revisions), 18 Cal. L. Revision Comm'n Reports 216 (1986) | Enacted. 1985 Cal. Stat. ch. 359 |
| 190. <i>Creditors' Remedies</i> (technical change), 18 Cal. L. Revision Comm'n Reports 217 (1986) | Enacted. 1985 Cal. Stat. ch. 41 |
| 191. <i>Uniform Transfers to Minors Act</i> (technical change), 18 Cal. L. Revision Comm'n Reports 218 (1986) | Enacted. 1985 Cal. Stat. ch. 90 |
| 192. <i>Protection of Mediation Communications</i> , 18 Cal. L. Revision Comm'n Reports 241 (1986) | Enacted. 1985 Cal. Stat. ch. 731 |
| 193. <i>Recording Severance of Joint Tenancy</i> , 18 Cal. L. Revision Comm'n Reports 249 (1986) | Enacted. 1985 Cal. Stat. ch. 157 |

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|---|---|
| 194. <i>Abandoned Easements</i> , 18 Cal. L. Revision Comm'n Reports 257 (1986) | Enacted. 1985 Cal. Stat. ch. 157 |
| 195. <i>Distribution Under a Will or Trust</i> , 18 Cal. L. Revision Comm'n Reports 269 (1986) | Enacted. 1985 Cal. Stat. ch. 982 |
| 196. <i>Effect of Adoption or Out of Wedlock Birth on Rights at Death</i> , 18 Cal. L. Revision Comm'n Reports 289 (1986) | Enacted. 1985 Cal. Stat. ch. 982 |
| 197. <i>Durable Powers of Attorney</i> , 18 Cal. L. Revision Comm'n Reports 305 (1986) | Enacted. 1985 Cal. Stat. ch. 403 |
| 198. <i>Litigation Expenses in Family Law Proceedings</i> , 18 Cal. L. Revision Comm'n Reports 351 (1986) | Enacted. 1985 Cal. Stat. ch. 362 |
| 199. <i>Civil Code Sections 4800.1 and 4800.2</i> , 18 Cal. L. Revision Comm'n Reports 383 (1986) | One of two recommended measures enacted (<i>Application of Civil Code §§ 4800.1 and 4800.2</i>). 1986 Cal. Stat. ch. 49 |
| 200. <i>The Trust Law</i> , 18 Cal. L. Revision Comm'n Reports 501 (1986) | Enacted. 1986 Cal. Stat. ch. 820 |
| 201. <i>Disposition of Estate Without Administration</i> , 18 Cal. L. Revision Comm'n Reports 1005 (1986) | Enacted. 1986 Cal. Stat. ch. 783 |
| 202. <i>Small Estate Set-Aside</i> , 18 Cal. L. Revision Comm'n Reports 1101 (1986) | Enacted. 1986 Cal. Stat. ch. 783 |
| 203. <i>Proration of Estate Taxes</i> , 18 Cal. L. Revision Comm'n Reports 1127 (1986) | Enacted. 1986 Cal. Stat. ch. 783 |
| 204. <i>Notice in Guardianship and Conservatorship</i> , 18 Cal. L. Revision Comm'n Reports 1793 (1986) | Enacted. 1987 Cal. Stat. ch. 923 |
| 205. <i>Preliminary Provisions and Definitions</i> , 18 Cal. L. Revision Comm'n Reports 1807 (1986) | Enacted. 1987 Cal. Stat. ch. 923 |
| 206. <i>Technical Revisions in the Trust Law</i> , 18 Cal. L. Revision Comm'n Reports 1823 (1986) | Enacted. 1987 Cal. Stat. ch. 128 |
| 207. <i>Supervised Administration</i> , 19 Cal. L. Revision Comm'n Reports 5 (1988) | Enacted. 1987 Cal. Stat. ch. 923 |
| 208. <i>Independent Administration</i> , 19 Cal. L. Revision Comm'n Reports 205 (1988) | Enacted. 1987 Cal. Stat. ch. 923 |

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| 209. <i>Creditor Claims Against Decedent's Estate</i> , 19 Cal. L. Revision Comm'n Reports 299 (1988) | Enacted. 1987 Cal. Stat. ch. 923 |
| 210. <i>Notice in Probate Proceedings</i> , 19 Cal. L. Revision Comm'n Reports 357 (1988) | Enacted. 1987 Cal. Stat. ch. 923 |
| 211. <i>Marital Deduction Gifts</i> , 19 Cal. L. Revision Comm'n Reports 615 (1988) | Enacted. 1987 Cal. Stat. ch. 923 |
| 212. <i>Estates of Missing Persons</i> , 19 Cal. L. Revision Comm'n Reports 637 (1988) | Enacted. 1987 Cal. Stat. ch. 923 |
| 213. <i>Public Guardians and Administrators</i> , 19 Cal. L. Revision Comm'n Reports 707 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 214. <i>Inventory and Appraisal</i> , 19 Cal. L. Revision Comm'n Reports 741 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 215. <i>Opening Estate Administration</i> , 19 Cal. L. Revision Comm'n Reports 787 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 216. <i>Abatement</i> , 19 Cal. L. Revision Comm'n Reports 865 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 217. <i>Accounts</i> , 19 Cal. L. Revision Comm'n Reports 877 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 218. <i>Litigation Involving Decedents</i> , 19 Cal. L. Revision Comm'n Reports 899 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 219. <i>Rules of Procedure in Probate</i> , 19 Cal. L. Revision Comm'n Reports 917 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 220. <i>Distribution and Discharge</i> , 19 Cal. L. Revision Comm'n Reports 953 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 221. <i>Nondomiciliary Decedents</i> , 19 Cal. L. Revision Comm'n Reports 993 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 222. <i>Interest and Income During Administration</i> , 19 Cal. L. Revision Comm'n Reports 1019 (1988) | Enacted. 1988 Cal. Stat. ch. 1199 |
| 223. <i>1988 Probate Cleanup Bill</i> , see 19 Cal. L. Revision Comm'n Reports 1167, 1191–1200 (1988) | Enacted. 1988 Cal. Stat. ch. 113 |

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| 224. <i>Authority of the Law Revision Commission</i> , 19 Cal. L. Revision Comm'n Reports 1162 (1988) | Enacted. 1989 Cal. Stat. ch. 152 |
| 225. <i>Creditors' Remedies</i> , 19 Cal. L. Revision Comm'n Reports 1251 (1988) | Enacted. 1989 Cal. Stat. ch. 1416 |
| 226. <i>No Contest Clauses</i> , 20 Cal. L. Revision Comm'n Reports 7 (1990) | Enacted. 1989 Cal. Stat. ch. 544 |
| 227. <i>120-Hour Survival Requirement</i> , 20 Cal. L. Revision Comm'n Reports 21 (1990) | Enacted. 1989 Cal. Stat. ch. 544 |
| 228. <i>Compensation of Attorneys and Personal Representatives</i> , 20 Cal. L. Revision Comm'n Reports 31 (1990) | Enacted except for portion relating to compensation of attorneys. 1990 Cal. Stat. ch. 79 |
| 229. <i>Multiple-Party Accounts</i> , 20 Cal. L. Revision Comm'n Reports 95 (1990) | Enacted. 1989 Cal. Stat. ch. 397 |
| 230. <i>Notice to Creditors</i> , 20 Cal. L. Revision Comm'n Reports 165 (1990); 20 Cal. L. Revision Comm'n Reports 507 (1990) | Enacted in part. 1989 Cal. Stat. ch. 544. Balance enacted. 1990 Cal. Stat. ch. 140 |
| 231. <i>1989 Probate Cleanup Bill</i> , see 20 Cal. L. Revision Comm'n Reports 201, 227 (1990) | Enacted. 1989 Cal. Stat. ch. 21 |
| 232. <i>Brokers' Commissions on Probate Sales</i> , 20 Cal. L. Revision Comm'n Reports 237-42 (1990) | Enacted. 1989 Cal. Stat. ch. 544 |
| 233. <i>Bonds of Guardians and Conservators</i> , 20 Cal. L. Revision Comm'n Reports 235 (1990) | Enacted. 1989 Cal. Stat. ch. 544 |
| 234. <i>Commercial Real Property Leases</i> , 20 Cal. L. Revision Comm'n Reports 251 (1990) | Enacted. 1989 Cal. Stat. ch. 982 |
| 235. <i>Trustees' Fees</i> , 20 Cal. L. Revision Comm'n Reports 279 (1990) | Enacted. 1990 Cal. Stat. ch. 79 |
| 236. <i>Springing Powers of Attorney</i> , 20 Cal. L. Revision Comm'n Reports 405 (1990) | Enacted. 1990 Cal. Stat. ch. 986 |
| 237. <i>Uniform Statutory Form Powers of Attorney Act</i> , 20 Cal. L. Revision Comm'n Reports 415 (1990) | Enacted. 1990 Cal. Stat. ch. 986 |

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| 238. <i>Disposition of Small Estate by Public Administrator</i> , 20 Cal. L. Revision Comm'n Reports 529 (1990) | Enacted. 1990 Cal. Stat. ch. 324 |
| 239. <i>Court-Authorized Medical Treatment</i> , 20 Cal. L. Revision Comm'n Reports 537 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 240. <i>Survival Requirement for Beneficiary of Statutory Will</i> , 20 Cal. L. Revision Comm'n Reports 549 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 241. <i>Execution or Modification of Lease Without Court Order</i> , 20 Cal. L. Revision Comm'n Reports 557 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 242. <i>Limitation Period for Action Against Surety in Guardianship or Conservatorship Proceeding</i> , 20 Cal. L. Revision Comm'n Reports 565 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 243. <i>Repeal of Probate Code Section 6402.5 (In-Law Inheritance)</i> , 20 Cal. L. Revision Comm'n Reports 571 (1990) | Not enacted |
| 244. <i>Access to Decedent's Safe Deposit Box</i> , 20 Cal. L. Revision Comm'n Reports 597 (1990); 20 Cal. L. Revision Comm'n Reports 2859 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 245. <i>Priority of Conservator or Guardian for Appointment as Administrator</i> , 20 Cal. L. Revision Comm'n Reports 607 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 246. <i>New Probate Code</i> , 20 Cal. L. Revision Comm'n Reports 1001 (1990) | Enacted. 1990 Cal. Stat. ch. 79 |
| 247. <i>Notice in Probate Where Address Unknown</i> , 20 Cal. L. Revision Comm'n Reports 2245 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 248. <i>Jurisdiction of Superior Court in Trust Matters</i> , 20 Cal. L. Revision Comm'n Reports 2253 (1990) | Enacted. 1990 Cal. Stat. ch. 710 |
| 249. <i>Uniform Management of Institutional Funds Act</i> , 20 Cal. L. Revision Comm'n Reports 2265 (1990) | Enacted. 1990 Cal. Stat. ch. 1307 |
| 250. <i>Remedies for Breach of Assignment or Sublease Covenant</i> , 20 Cal. L. Revision Comm'n Reports 2405 (1990) | Enacted. 1991 Cal. Stat. ch. 67 |

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|---|-----------------------------------|
| 251. <i>Use Restrictions</i> , 20 Cal. L. Revision Comm'n Reports 2421 (1990) | Enacted. 1991 Cal. Stat. ch. 67 |
| 252. <i>Uniform Statutory Rule Against Perpetuities</i> , 20 Cal. L. Revision Comm'n Reports 2501 (1990) | Enacted. 1991 Cal. Stat. ch. 156 |
| 253. <i>Elimination of Seven-Year Limit for Durable Power of Attorney for Health Care</i> , 20 Cal. L. Revision Comm'n Reports 2601 (1990) | Enacted. 1991 Cal. Stat. ch. 896 |
| 254. <i>Recognition of Agent's Authority Under Statutory Form Power of Attorney</i> , 20 Cal. L. Revision Comm'n Reports 2629 (1990); 22 Cal. L. Revision Comm'n Reports 965 (1992) | Enacted. 1992 Cal. Stat. ch. 178 |
| 255. <i>Debts That Are Contingent, Disputed, or Not Due</i> , 20 Cal. L. Revision Comm'n Reports 2707 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 256. <i>Remedies of Creditor Where Personal Representative Fails to Give Notice</i> , 20 Cal. L. Revision Comm'n Reports 2719 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 257. <i>Repeal of Civil Code Section 704 (Passage of Ownership of U.S. Bonds on Death)</i> , 20 Cal. L. Revision Comm'n Reports 2729 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 258. <i>Disposition of Small Estate Without Probate</i> , 20 Cal. L. Revision Comm'n Reports 2737 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 259. <i>Right of Surviving Spouse to Dispose of Community Property</i> , 20 Cal. L. Revision Comm'n Reports 2769 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 260. <i>Litigation Involving Decedents</i> , 20 Cal. L. Revision Comm'n Reports 2785 (1990); 22 Cal. L. Revision Comm'n Reports 895 (1992) | Enacted. 1992 Cal. Stat. ch. 178 |
| 261. <i>Compensation in Guardianship and Conservatorship Proceedings</i> , 20 Cal. L. Revision Comm'n Reports 2837 (1990); 21 Cal. L. Revision Comm'n Reports 227 (1991) | Enacted. 1992 Cal. Stat. ch. 572 |
| 262. <i>Recognition of Trustees' Powers</i> , 20 Cal. L. Revision Comm'n Reports 2849 (1990) | Enacted. 1992 Cal. Stat. ch. 178 |

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| 263. <i>Gifts in View of Impending Death</i> , 20 Cal. L. Revision Comm'n Reports 2869 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 264. <i>TOD Beneficiary Designation for Vehicles and Certain Other State-Registered Property</i> , 20 Cal. L. Revision Comm'n Reports 2883 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 265. <i>1991 General Probate Bill</i> (miscellaneous provisions), see 20 Cal. L. Revision Comm'n Reports 2907 (1990) | Enacted. 1991 Cal. Stat. ch. 1055 |
| 266. <i>1991 Probate Urgency Clean-up Bill</i> , see 20 Cal. L. Revision Comm'n Reports 2909 (1990) | Enacted. 1991 Cal. Stat. ch. 82 |
| 267. <i>Application of Marketable Title Statute to Executory Interests</i> , 21 Cal. L. Revision Comm'n Reports 53 (1991) | Enacted. 1991 Cal. Stat. ch. 156 |
| 268. <i>Relocation of Powers of Appointment Statute</i> , 21 Cal. L. Revision Comm'n Reports 91 (1991) | Enacted. 1992 Cal. Stat. ch. 30 |
| 269. <i>Miscellaneous Creditors' Remedies</i> , 21 Cal. L. Revision Comm'n Reports 135 (1991) | Enacted. 1992 Cal. Stat. ch. 283 |
| 270. <i>Nonprobate Transfers of Community Property</i> , 21 Cal. L. Revision Comm'n Reports 163 (1991) | Enacted. 1992 Cal. Stat. ch. 51 |
| 271. <i>Notice of Trustees' Fees</i> , 21 Cal. L. Revision Comm'n Reports 191 (1991) | Enacted. 1992 Cal. Stat. ch. 178 |
| 272. <i>Nonprobate Transfer to Trustee Named in Will</i> , 21 Cal. L. Revision Comm'n Reports 201 (1991) | Enacted. 1992 Cal. Stat. ch. 178 |
| 273. <i>Preliminary Distribution Without Court Supervision</i> 21 Cal. L. Revision Comm'n Reports 209 (1991) | Enacted. 1992 Cal. Stat. ch. 178 |
| 274. <i>Transfer of Conservatorship Property to Trust</i> , 21 Cal. L. Revision Comm'n Reports 227 (1991) | Enacted. 1992 Cal. Stat. ch. 572 |
| 275. <i>Standing To Sue for Wrongful Death</i> , 22 Cal. L. Revision Comm'n Reports 955 (1992) | Enacted. 1992 Cal. Stat. ch. 178 |
| 276. <i>Family Code</i> , 22 Cal. L. Revision Comm'n Reports 1 (1992) | Enacted. 1992 Cal. Stat. chs. 162, 163 |

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| 277. <i>Special Needs Trust for Disabled Minor or Incompetent Person</i> , 22 Cal. L. Revision Comm'n Reports 989 (1992) | Enacted. 1992 Cal. Stat. ch. 355 |
| 278. <i>1992 General Probate Bill</i> (miscellaneous provisions), see 22 Cal. L. Revision Comm'n Reports 977 (1990) | Enacted. 1992 Cal. Stat. ch. 178 |
| 279. <i>1994 Family Code</i> , 23 Cal. L. Revision Comm'n Reports 1, 5 (1993) | Enacted. 1993 Cal. Stat. ch. 219 |
| 280. <i>Family Code: Child Custody</i> , 23 Cal. L. Revision Comm'n Reports 1, 15 (1993) | Enacted. 1993 Cal. Stat. ch. 219 |
| 281. <i>Family Code: Reorganization of Domestic Violence Provisions</i> , 23 Cal. L. Revision Comm'n Reports 1, 23 (1993) | Enacted. 1993 Cal. Stat. ch. 219 |
| 282. <i>Deposit of Estate Planning Documents with Attorney</i> , 23 Cal. L. Revision Comm'n Reports 965 (1993) | Enacted. 1993 Cal. Stat. ch. 519 |
| 283. <i>Parent and Child Relationship for Intestate Succession</i> , 23 Cal. L. Revision Comm'n Reports 991 (1993) | Enacted. 1993 Cal. Stat. ch. 529 |
| 284. <i>Effect of Joint Tenancy Title on Marital Property</i> , 23 Cal. L. Revision Comm'n Reports 1013 (1993) | Not enacted |
| 285. <i>Orders To Show Cause and Temporary Restraining Orders</i> , 24 Cal. L. Revision Comm'n Reports 603 (1994) | Enacted. 1994 Cal. Stat. ch. 587 |
| 286. <i>Comprehensive Power of Attorney Law</i> , 24 Cal. L. Revision Comm'n Reports 111 (1994); <i>1995 Comprehensive Power of Attorney Law</i> , 24 Cal. L. Revision Comm'n Reports 323 (1994) | Enacted. 1994 Cal. Stat. ch. 307 |
| 287. <i>Trial Court Unification: Constitutional Revision</i> (SCA 3), 24 Cal. L. Revision Comm'n Reports 1 (1994); <i>Trial Court Unification: Transitional Provisions for SCA 3</i> , 24 Cal. L. Revision Comm'n Reports 627 (1994) | Not enacted. Commission recommendations adopted in SCA 3 (1993-94), but SCA 3 not approved by Assembly. Commission recommendations largely enacted in SCA 4 (1996 Cal. Stat. res. ch. 36) |
| 288. <i>Family Code Technical Amendments</i> . See 24 Cal. L. Revision Comm'n Reports 621 (1994); 26 Cal. L. Revision Comm'n Reports 175 (1996) | Enacted. 1994 Cal. Stat. ch. 1269; 1996 Cal. Stat. ch. 1061 |

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| 289. <i>Uniform Prudent Investor Act</i> , 25 Cal. L. Revision Comm'n Reports 543 (1995). See also 25 Cal. L. Revision Comm'n Reports 673 (1995) | Enacted. 1995 Cal. Stat. ch. 63 |
| 290. <i>Debtor-Creditor Relations</i> , 25 Cal. L. Revision Comm'n Reports 1 (1995) | Enacted in part. 1995 Cal. Stat. ch. 196 |
| 291. <i>Power of Attorney Law Technical Amendments</i> . See 25 Cal. L. Revision Comm'n Reports 709 (1995) | Enacted. 1995 Cal. Stat. ch. 300 |
| 292. <i>Administrative Adjudication by State Agencies</i> , 25 Cal. L. Revision Comm'n Reports 55 (1995) | Enacted. 1995 Cal. Stat. ch. 938 |
| 293. <i>Statute of Limitations in Trust Matters</i> , 26 Cal. L. Revision Comm'n Reports 1 (1996) | Enacted. 1996 Cal. Stat. ch. 862 |
| 294. <i>Inheritance From or Through Child Born Out of Wedlock</i> , 26 Cal. L. Revision Comm'n Reports 13 (1996) | Enacted. 1996 Cal. Stat. ch. 862 |
| 295. <i>Collecting Small Estate Without Administration</i> , 26 Cal. L. Revision Comm'n Reports 21 (1996) | Enacted. 1996 Cal. Stat. ch. 563 |
| 296. <i>Homestead Exemption</i> , 26 Cal. L. Revision Comm'n Reports 37 (1996) | Not enacted |
| 297. <i>Tolling Statute of Limitations When Defendant Is Out of State</i> , 26 Cal. L. Revision Comm'n Reports 83 (1996) | Enacted in part (technical amendments). 1997 Cal. Stat. ch. 1012, §§ 13, 14 |
| 298. <i>Administrative Adjudication Technical Amendments</i> , 26 Cal. L. Revision Comm'n Reports 171 (1996) | Enacted. 1996 Cal. Stat. ch. 390 |
| 299. <i>Unfair Competition Litigation</i> , 26 Cal. L. Revision Comm'n Reports 191 (1996) | Not enacted |
| 300. <i>Administrative Adjudication by Quasi-Public Entities</i> , 26 Cal. L. Revision Comm'n Reports 277 (1996) | Enacted. 1997 Cal. Stat. ch. 220 |
| 301. <i>Marketable Title: Enforceability of Land Use Restrictions</i> , 26 Cal. L. Revision Comm'n Reports 289 (1996) | Pending |
| 302. <i>Attachment by Undersecured Creditors</i> , 26 Cal. L. Revision Comm'n Reports 307 (1996) | Enacted. 1997 Cal. Stat. ch. 222 |

| Recommendation | Action by Legislature |
|---|----------------------------------|
| 303. <i>Ethical Standards for Administrative Law Judges</i> , 26 Cal. L. Revision Comm'n Reports 335 (1996) | Pending |
| 304. <i>Best Evidence Rule</i> , 26 Cal. L. Revision Comm'n Reports 369 (1996) | Pending |
| 305. <i>Mediation Confidentiality</i> , 26 Cal. L. Revision Comm'n Reports 407 (1996) | Enacted. 1997 Cal. Stat. ch. 772 |
| 306. <i>Judicial Review of Agency Action</i> , 27 Cal. L. Revision Comm'n Reports 1 (1997) | Pending |

APPENDIX 4

REPORT OF THE CALIFORNIA LAW REVISION COMMISSION ON CHAPTER 220 OF THE STATUTES OF 1997 (SENATE BILL 68)

Administrative Adjudication by Quasi-Public Entities

Chapter 220 of the Statutes of 1997 was introduced as Senate Bill 68 by Senator Quentin L. Kopp to implement the Commission's recommendation on *Administrative Adjudication by Quasi-Public Entities*, 26 Cal. L. Revision Comm'n Reports 277 (1996). The Comments set out below supersede and supplement the original recommendation and reflect amendments to the bill made during the legislative process.

Gov't Code § 11410.60 (added). Application to quasi-public entities

Comment. Section 11410.60 applies this chapter to adjudicative decisions of quasi-public entities for which an evidentiary hearing by the quasi-public entity is statutorily or constitutionally required. A typical decision of this type might involve resolution of a membership assessment protest or a hearing on a claim that has been denied (provided the statute or Constitution requires a hearing for a decision of that type). *Cf.* Section 11405.50 ("decision" is action of specific application that determines legal right or other legal interest of particular person). This chapter does not apply to legislative actions such as an election or negotiation and adoption of a health and welfare benefits plan, pension trust, or collective bargaining agreement by an industry or labor organization.

This section does not apply to an entity unless the entity was expressly created by statute for the purpose of administering a state function. Thus this chapter governs hearings required to be held by a statutory entity such as the Winegrowers of California Commission (Food & Agric. Code § 74061) or the Escrow Agents' Fidelity Corporation (Fin. Code § 17311). But the statute does not govern hearings of a private entity such as a licensed health care provider (Health & Safety Code § 1200 *et seq.*), a labor organization, or a board of trustees established pursuant to statute

under an interindemnity, reciprocal, or interinsurance contract between members of a cooperative corporation (Ins. Code § 1280.7).

This section does not apply to the State Bar, including proceedings of the State Bar Court. See Bus. & Prof. Code § 6001.

The intent of this section is to provide fair hearing rules where a statute or the Constitution requires a hearing. This section is not intended to create any new hearing requirements. Thus, for example, this section does not apply to a decision of the Travel Consumer Restitution Corporation where the statute requires that the claim be decided on the written record, “with no hearing to be held.” Bus. & Prof. Code § 17550.47.

Although subdivision (b) makes this chapter inapplicable to a quasi-public entity decision if the decision is otherwise reviewable in a proceeding governed by this chapter, the quasi-public entity may voluntarily adopt the procedural protections provided in this chapter. *Cf.* Section 11410.40 (election to apply administrative adjudication provisions).

Unemp. Ins. Code § 1953.5 (added). Telephonic hearings of unemployment insurance appeals board

Comment. Good cause, within the meaning of Section 1953.5, may include circumstances where a party resides out of state or at a location distant from the hearing site and it is not practical for the party to appear in person, particularly where the amount in controversy is relatively small. However, the presiding officer may require the parties to appear in person if warranted by the circumstances of the case.

APPENDIX 5

REPORT OF THE
CALIFORNIA LAW REVISION COMMISSION
ON CHAPTER 772 OF THE STATUTES OF 1997
(ASSEMBLY BILL 939)

Mediation Confidentiality

Chapter 772 of the Statutes of 1997 was introduced as Assembly Bill 939 by Assembly Member Deborah Ortiz to implement the Commission’s recommendation on *Mediation Confidentiality*, 26 Cal. L. Revision Comm’n Reports 407 (1996). For ease of reference, the complete text of Chapter 772 and the Official Comments of the Commission are set out below. These Comments supersede the Comments in the Commission’s printed recommendation. The new mediation chapter in the Evidence Code is set out first, followed by conforming revisions and Comments to repealed sections.

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NEW MEDIATION CHAPTER

Evid. Code §§ 1115-1128 (added). Mediation

SEC. 3. Chapter 2 (commencing with Section 1115) is added to Division 9 of the Evidence Code, to read:

CHAPTER 2. MEDIATION

§ 1115. Definitions

1115. For purposes of this chapter:
- (a) “Mediation” means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.
 - (b) “Mediator” means a neutral person who conducts a mediation. “Mediator” includes any person designated by a mediator either to assist in the mediation or to communicate with the participants in preparation for a mediation.

(c) “Mediation consultation” means a communication between a person and a mediator for the purpose of initiating, considering, or reconvening a mediation or retaining the mediator.

Comment. Subdivision (a) of Section 1115 is drawn from Code of Civil Procedure Section 1775.1. To accommodate a wide range of mediation styles, the definition is broad, without specific limitations on format. For example, it would include a mediation conducted as a number of sessions, only some of which involve the mediator. The definition focuses on the nature of a proceeding, not its label. A proceeding may be a “mediation” for purposes of this chapter, even though it is denominated differently.

Under subdivision (b), a mediator must be neutral. The neutrality requirement is drawn from Code of Civil Procedure Section 1775.1. An attorney or other representative of a party is not neutral and so does not qualify as a “mediator” for purposes of this chapter.

A “mediator” may be an individual, group of individuals, or entity. See Section 175 (“person” defined). See also Section 10 (singular includes the plural). This definition of mediator encompasses not only the neutral person who takes the lead in conducting a mediation, but also any neutral who assists in the mediation, such as a case-developer, interpreter, or secretary. The definition focuses on a person’s role, not the person’s title. A person may be a “mediator” under this chapter even though the person has a different title, such as “ombudsperson.” Any person who meets the definition of “mediator” must comply with Section 1121 (mediator reports and communications), which generally prohibits a mediator from reporting to a court or other tribunal concerning the mediated dispute.

Subdivision (c) is drawn from former Section 1152.5, which was amended in 1996 to explicitly protect mediation intake communications. See 1996 Cal. Stat. ch. 174, § 1. Subdivision (c) is not limited to communications to retain a mediator. It also encompasses contacts concerning whether to mediate, such as where a mediator contacts a disputant because another disputant desires to mediate, and contacts concerning initiation or recommencement of mediation, such as where a case-developer meets with a disputant before mediation.

For the scope of this chapter, see Section 1117.

§ 1116. Effect of chapter

1116. (a) Nothing in this chapter expands or limits a court’s authority to order participation in a dispute resolution proceeding. Nothing in this chapter authorizes or affects the

enforceability of a contract clause in which parties agree to the use of mediation.

(b) Nothing in this chapter makes admissible evidence that is inadmissible under Section 1152 or any other statute.

Comment. Subdivision (a) of Section 1116 establishes guiding principles for applying this chapter.

Subdivision (b) continues the first sentence of former Section 1152.5(c) without substantive change.

§ 1117. Scope of chapter

1117. (a) Except as provided in subdivision (b), this chapter applies to a mediation as defined in Section 1115.

(b) This chapter does not apply to either of the following:

(1) A proceeding under Part 1 (commencing with Section 1800) of Division 5 of the Family Code or Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code.

(2) A settlement conference pursuant to Rule 222 of the California Rules of Court.

Comment. Under subdivision (a) of Section 1117, mediation confidentiality and the other safeguards of this chapter apply to a broad range of mediations. See Section 1115 Comment.

Subdivision (b) sets forth two exceptions. Section 1117(b)(1) continues without substantive change former Section 1152.5(b). Special confidentiality rules apply to a proceeding in family conciliation court or a mediation of child custody or visitation issues. See Section 1040; Fam. Code §§ 1818, 3177.

Section 1117(b)(2) establishes that a court settlement conference is not a mediation within the scope of this chapter. A settlement conference is conducted under the aura of the court and is subject to special rules.

§ 1118. Recorded oral agreement

1118. An oral agreement “in accordance with Section 1118” means an oral agreement that satisfies all of the following conditions:

(a) The oral agreement is recorded by a court reporter, tape recorder, or other reliable means of sound recording.

(b) The terms of the oral agreement are recited on the record in the presence of the parties and the mediator, and the parties express on the record that they agree to the terms recited.

(c) The parties to the oral agreement expressly state on the record that the agreement is enforceable or binding or words to that effect.

(d) The recording is reduced to writing and the writing is signed by the parties within 72 hours after it is recorded.

Comment. Section 1118 establishes a procedure for orally memorializing an agreement, in the interest of efficiency. Provisions permitting use of that procedure for certain purposes include Sections 1121 (mediator reports and communications), 1122 (disclosure by agreement), 1123 (written settlement agreements reached through mediation), and 1124 (oral agreements reached through mediation). See also Section 1125 (when mediation ends). For guidance on authority to bind a litigant, see *Williams v. Saunders*, 55 Cal. App. 4th 1158, 64 Cal. Rptr. 2d 571 (1997) (“The litigants’ direct participation tends to ensure that the settlement is the result of their mature reflection and deliberate assent.”).

§ 1119. Mediation confidentiality

1119. Except as otherwise provided in this chapter:

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

Comment. Subdivision (a) of Section 1119 continues without substantive change former Section 1152.5(a)(1), except that its protection explicitly applies in a subsequent arbitration or administrative adjudication, as well as in any civil action or proceeding. See Section 120 (“civil action” includes civil proceedings). In addition, the protection of Section 1119(a) extends to oral communications made for the purpose of or pursuant to a mediation, not just oral communications made in the course of the mediation.

Subdivision (b) continues without substantive change former Section 1152.5(a)(2), except that its protection explicitly applies in a subsequent arbitration or administrative adjudication, as well as in any civil action or proceeding. See Section 120 (“civil action” includes civil proceedings). In addition, subdivision (b) expressly encompasses any type of “writing” as defined in Section 250, regardless of whether the representations are on paper or on some other medium.

Subdivision (c) continues former Section 1152.5(a)(3) without substantive change. A mediation is confidential notwithstanding the presence of an observer, such as a person evaluating or training the mediator or studying the mediation process.

See Sections 1115(a) (“mediation” defined), 1115(c) (“mediation consultation” defined). See also Section 703.5 (testimony by a judge, arbitrator, or mediator).

For examples of specialized mediation confidentiality provisions, see Bus. & Prof. Code §§ 467.4-467.5 (community dispute resolution programs), 6200 (attorney-client fee disputes); Code Civ. Proc. §§ 1297.371 (international commercial disputes), 1775.10 (civil action mediation in participating courts); Fam. Code §§ 1818 (family conciliation court), 3177 (child custody); Food & Agric. Code § 54453 (agricultural cooperative bargaining associations); Gov’t Code §§ 11420.20-11420.30 (administrative adjudication), 12984-12985 (housing discrimination), 66032-66033 (land use); Ins. Code § 10089.80 (earthquake insurance); Lab. Code § 65 (labor disputes); Welf. & Inst. Code § 350 (dependency mediation). See also Cal. Const. art. I, § 1 (right to privacy); *Garstang v. Superior Court*, 39 Cal. App. 4th 526, 46 Cal. Rptr. 2d 84, 88 (1995) (constitutional right of privacy protected communications made during mediation sessions before an ombudsperson).

§ 1120. Types of evidence not covered

1120. (a) Evidence otherwise admissible or subject to discovery outside of a mediation or a mediation consultation shall not be or become inadmissible or protected from disclosure solely by reason of its introduction or use in a mediation or a mediation consultation.

(b) This chapter does not limit any of the following:

(1) The admissibility of an agreement to mediate a dispute.

(2) The effect of an agreement not to take a default or an agreement to extend the time within which to act or refrain from acting in a pending civil action.

(3) Disclosure of the mere fact that a mediator has served, is serving, will serve, or was contacted about serving as a mediator in a dispute.

Comment. Subdivision (a) of Section 1120 continues former Section 1152.5(a)(6) without change. It limits the scope of Section 1119 (mediation confidentiality), preventing parties from using a mediation as a pretext to shield materials from disclosure.

Subdivision (b)(1) makes explicit that Section 1119 does not restrict admissibility of an agreement to mediate. Subdivision (b)(2) continues former Section 1152.5(e) without substantive change, but also includes an express exception for extensions of litigation deadlines. Subdivision (b)(3) makes clear that Section 1119 does not preclude a disputant from obtaining basic information about a mediator's track record, which may be significant in selecting an impartial mediator. Similarly, mediation participants may express their views on a mediator's performance, so long as they do not disclose anything said or done at the mediation.

See Sections 1115(a) ("mediation" defined), 1115(b) ("mediator" defined), 1115(c) ("mediation consultation" defined).

§ 1121. Mediator reports and communications

1121. Neither a mediator nor anyone else may submit to a court or other adjudicative body, and a court or other adjudicative body may not consider, any report, assessment, evaluation, recommendation, or finding of any kind by the mediator concerning a mediation conducted by the mediator, other than a report that is mandated by court rule or other law

and that states only whether an agreement was reached, unless all parties to the mediation expressly agree otherwise in writing, or orally in accordance with Section 1118.

Comment. Section 1121 continues the first sentence of former Section 1152.6 without substantive change, except to make clear that (1) the section applies to all submissions, not just filings, (2) the section is not limited to court proceedings but rather applies to all types of adjudications, including arbitrations and administrative adjudications, (3) the section applies to any report or statement of opinion, however denominated, and (4) neither a mediator nor anyone else may submit the prohibited information. The section does not prohibit a mediator from providing a mediation participant with feedback on the dispute in the course of the mediation.

Rather, the focus is on preventing coercion. As Section 1121 recognizes, a mediator should not be able to influence the result of a mediation or adjudication by reporting or threatening to report to the decisionmaker on the merits of the dispute or reasons why mediation failed to resolve it. Similarly, a mediator should not have authority to resolve or decide the mediated dispute, and should not have any function for the adjudicating tribunal with regard to the dispute, except as a non-decisionmaking neutral. See Section 1117 (scope of chapter), which excludes settlement conferences from this chapter.

The exception to Section 1121 (permitting submission and consideration of a mediator's report where "all parties to the mediation expressly agree" in writing) is modified to allow use of the oral procedure in Section 1118 (recorded oral agreement) and to permit making of the agreement at any time, not just before the mediation. A mediator's report to a court may disclose mediation communications only if all parties to the mediation agree to the reporting and all persons who participate in the mediation agree to the disclosure. See Section 1122 (disclosure by agreement).

The second sentence of former Section 1152.6 is continued without substantive change in Section 1117 (scope of chapter), except that Section 1117 excludes proceedings under Part 1 (commencing with Section 1800) of Division 5 of the Family Code, as well as proceedings under Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code.

See Sections 1115(a) ("mediation" defined), 1115(b) ("mediator" defined). See also Sections 703.5 (testimony by a judge, arbitrator, or mediator), 1127 (attorney's fees), 1128 (irregularity in proceedings).

§ 1122. Disclosure by agreement

1122. (a) A communication or a writing, as defined in Section 250, that is made or prepared for the purpose of, or in the course of, or pursuant to, a mediation or a mediation consultation, is not made inadmissible, or protected from disclosure, by provisions of this chapter if either of the following conditions is satisfied:

(1) All persons who conduct or otherwise participate in the mediation expressly agree in writing, or orally in accordance with Section 1118, to disclosure of the communication, document, or writing.

(2) The communication, document, or writing was prepared by or on behalf of fewer than all the mediation participants, those participants expressly agree in writing, or orally in accordance with Section 1118, to its disclosure, and the communication, document, or writing does not disclose anything said or done or any admission made in the course of the mediation.

(b) For purposes of subdivision (a), if the neutral person who conducts a mediation expressly agrees to disclosure, that agreement also binds any other person described in subdivision (b) of Section 1115.

Comment. Section 1122 supersedes former Section 1152.5(a)(4) and part of former Section 1152.5(a)(2), which were unclear regarding precisely whose agreement was required for admissibility or disclosure of mediation communications and documents.

Subdivision (a)(1) states the general rule that mediation documents and communications may be admitted or disclosed only upon agreement of all participants, including not only parties but also the mediator and other nonparties attending the mediation (e.g., a disputant not involved in litigation, a spouse, an accountant, an insurance representative, or an employee of a corporate affiliate). Agreement must be express, not implied. For example, parties cannot be deemed to have agreed in advance to disclosure merely because they agreed to participate in a particular dispute resolution program.

Subdivision (a)(2) facilitates admissibility and disclosure of unilaterally prepared materials, but it only applies so long as those

materials may be produced in a manner revealing nothing about the mediation discussion. Materials that necessarily disclose mediation communications may be admitted or disclosed only upon satisfying the general rule of subdivision (a)(1).

Mediation materials that satisfy the requirements of subdivisions (a)(1) or (a)(2) are not necessarily admissible or subject to disclosure. Although the provisions on mediation confidentiality do not bar admissibility or disclosure, there may be other bases for exclusion.

Subdivision (b) makes clear that if the person who takes the lead in conducting a mediation agrees to disclosure, it is unnecessary to seek out and obtain assent from each assistant to that person, such as a case developer, interpreter, or secretary.

For exceptions to Section 1122, see Sections 1123 (written settlement agreements reached through mediation) and 1124 (oral agreements reached through mediation) & Comments.

See Section 1115(a) (“mediation” defined), 1115(c) (“mediation consultation” defined). See also Sections 703.5 (testimony by a judge, arbitrator, or mediator), 1119 (mediation confidentiality), 1121 (mediator reports and communications).

§ 1123. Written settlement agreements reached through mediation

1123. A written settlement agreement prepared in the course of, or pursuant to, a mediation, is not made inadmissible, or protected from disclosure, by provisions of this chapter if the agreement is signed by the settling parties and any of the following conditions are satisfied:

(a) The agreement provides that it is admissible or subject to disclosure, or words to that effect.

(b) The agreement provides that it is enforceable or binding or words to that effect.

(c) All parties to the agreement expressly agree in writing, or orally in accordance with Section 1118, to its disclosure.

(d) The agreement is used to show fraud, duress, or illegality that is relevant to an issue in dispute.

Comment. Section 1123 consolidates and clarifies provisions governing written settlements reached through mediation. For guidance on binding a disputant to a written settlement agreement, see *Williams v. Saunders*, 55 Cal. App. 4th 1158, 64 Cal. Rptr. 2d 571 (1997) (“The

litigants' direct participation tends to ensure that the settlement is the result of their mature reflection and deliberate assent.”).

As to an executed written settlement agreement, subdivision (a) continues part of former Section 1152.5(a)(2). See also *Ryan v. Garcia*, 27 Cal. App. 4th 1006, 1012, 33 Cal. Rptr. 2d 158, 162 (1994) (Section 1152.5 “provides a simple means by which settlement agreements executed during mediation can be made admissible in later proceedings,” i.e., the “parties may consent, as part of a writing, to subsequent admissibility of the agreement”).

Subdivision (b) is new. It is added due to the likelihood that parties intending to be bound will use words to that effect, rather than saying their agreement is intended to be admissible or subject to disclosure.

As to fully executed written settlement agreements, subdivision (c) supersedes former Section 1152.5(a)(4). To facilitate enforceability of such agreements, disclosure pursuant to subdivision (c) requires only agreement of the parties. Agreement of the mediator and other mediation participants is not necessary. Subdivision (c) is thus an exception to the general rule governing disclosure of mediation communications by agreement. See Section 1122.

Subdivision (d) continues former Section 1152.5(a)(5) without substantive change.

A written settlement agreement that satisfies the requirements of subdivision (a), (b), (c), or (d) is not necessarily admissible or subject to disclosure. Although the provisions on mediation confidentiality do not bar admissibility or disclosure, there may be other bases for exclusion.

See Section 1115(a) (“mediation” defined).

§ 1124. Oral agreements reached through mediation

1124. An oral agreement made in the course of, or pursuant to, a mediation is not made inadmissible, or protected from disclosure, by the provisions of this chapter if any of the following conditions are satisfied:

(a) The agreement is in accordance with Section 1118.

(b) The agreement is in accordance with subdivisions (a), (b), and (d) of Section 1118, and all parties to the agreement expressly agree, in writing or orally in accordance with Section 1118, to disclosure of the agreement.

(c) The agreement is in accordance with subdivisions (a), (b), and (d) of Section 1118, and the agreement is used to

show fraud, duress, or illegality that is relevant to an issue in dispute.

Comment. Section 1124 sets forth specific circumstances under which mediation confidentiality is inapplicable to an oral agreement reached through mediation. Except in those circumstances, Sections 1119 (mediation confidentiality) and 1124 codify the rule of *Ryan v. Garcia*, 27 Cal. App. 4th 1006, 33 Cal. Rptr. 2d 158 (1994) (mediation confidentiality applies to oral statement of settlement terms), and reject the contrary approach of *Regents of University of California v. Sumner*, 42 Cal. App. 4th 1209, 50 Cal. Rptr. 2d 200 (1996) (mediation confidentiality does not protect oral statement of settlement terms).

Subdivision (a) of Section 1124 facilitates enforcement of an oral agreement that is recorded and memorialized in writing in accordance with Section 1118. For guidance in applying subdivision (a), see Section 1125 (when mediation ends) & Comment.

Subdivision (b) parallels Section 1123(c).

Subdivision (c) parallels Section 1123(d).

An oral agreement that satisfies the requirements of subdivision (a), (b), or (c) is not necessarily admissible or subject to disclosure. Although the provisions on mediation confidentiality do not bar admissibility or disclosure, there may be other bases for exclusion. For guidance on binding a disputant to a settlement agreement, see *Williams v. Saunders*, 55 Cal. App. 4th 1158, 64 Cal. Rptr. 2d 571 (1997) (“The litigants’ direct participation tends to ensure that the settlement is the result of their mature reflection and deliberate assent.”).

See Section 1115(a) (“mediation” defined).

§ 1125. When mediation ends

1125. (a) For purposes of confidentiality under this chapter, a mediation ends when any one of the following conditions is satisfied:

(1) The parties execute a written settlement agreement that fully resolves the dispute.

(2) An oral agreement that fully resolves the dispute is reached in accordance with Section 1118.

(3) The mediator provides the mediation participants with a writing signed by the mediator that states that the mediation is terminated, or words to that effect, which shall be consistent with Section 1121.

(4) A party provides the mediator and the other mediation participants with a writing stating that the mediation is terminated, or words to that effect, which shall be consistent with Section 1121. In a mediation involving more than two parties, the mediation may continue as to the remaining parties or be terminated in accordance with this section.

(5) For 10 calendar days, there is no communication between the mediator and any of the parties to the mediation relating to the dispute. The mediator and the parties may shorten or extend this time by agreement.

(b) For purposes of confidentiality under this chapter, if a mediation partially resolves a dispute, mediation ends when either of the following conditions is satisfied:

(1) The parties execute a written settlement agreement that partially resolves the dispute.

(2) An oral agreement that partially resolves the dispute is reached in accordance with Section 1118.

(c) This section does not preclude a party from ending a mediation without reaching an agreement. This section does not otherwise affect the extent to which a party may terminate a mediation.

Comment. By specifying when a mediation ends, Section 1125 provides guidance on which communications are protected by Section 1119 (mediation confidentiality).

Under subdivision (a)(1), if mediation participants reach an oral compromise and reduce it to a written settlement fully resolving their dispute, confidentiality extends until the agreement is signed by all the parties. For guidance on binding a disputant to a settlement agreement, see *Williams v. Saunders*, 55 Cal. App. 4th 1158, 64 Cal. Rptr. 2d 571 (1997) (“The litigants’ direct participation tends to ensure that the settlement is the result of their mature reflection and deliberate assent.”).

Subdivision (a)(2) applies where mediation participants fully resolve their dispute by an oral agreement that is recorded and memorialized in writing in accordance with Section 1118. The mediation is over upon completion of that procedure, and the confidentiality protections of this chapter do not apply to any later proceedings, such as attempts to further refine the content of the agreement. See Section 1124 (oral agreements reached through mediation). Subdivisions (a)(3) and (a)(4) are drawn

from Rule 14 of the American Arbitration Association's Commercial Mediation Rules (as amended, Jan. 1, 1992). Subdivision (a)(5) applies where an affirmative act terminating a mediation for purposes of this chapter does not occur.

Subdivision (b) applies where mediation partially resolves a dispute, such as when the disputants resolve only some of the issues (e.g., contract, but not tort, liability) or when only some of the disputants settle.

Subdivision (c) limits the effect of Section 1125.

See Sections 1115(a) ("mediation" defined), 1115(b) ("mediator" defined).

§ 1126. Effect of end of mediation

1126. Anything said, any admission made, or any writing that is inadmissible, protected from disclosure, and confidential under this chapter before a mediation ends, shall remain inadmissible, protected from disclosure, and confidential to the same extent after the mediation ends.

Comment. Section 1126 clarifies that mediation materials are confidential not only during a mediation, but also after the mediation ends pursuant to Section 1125 (when mediation ends).

See Section 1115(a) ("mediation" defined).

§ 1127. Attorney's fees

1127. If a person subpoenas or otherwise seeks to compel a mediator to testify or produce a writing, as defined in Section 250, and the court or other adjudicative body determines that the testimony or writing is inadmissible under this chapter, or protected from disclosure under this chapter, the court or adjudicative body making the determination shall award reasonable attorney's fees and costs to the mediator against the person seeking the testimony or writing.

Comment. Section 1127 continues former Section 1152.5(d) without substantive change, except to clarify that either a court or another adjudicative body (e.g., an arbitrator or an administrative tribunal) may award the fees and costs. Because Section 1115 (definitions) defines "mediator" to include not only the neutral person who takes the lead in conducting a mediation, but also any neutral who assists in the mediation, fees are available regardless of the role played by the person subjected to discovery.

See Section 1115(b) (“mediator” defined).

§ 1128. Irregularity in proceedings

1128. Any reference to a mediation during any subsequent trial is an irregularity in the proceedings of the trial for the purposes of Section 657 of the Code of Civil Procedure. Any reference to a mediation during any other subsequent noncriminal proceeding is grounds for vacating or modifying the decision in that proceeding, in whole or in part, and granting a new or further hearing on all or part of the issues, if the reference materially affected the substantial rights of the party requesting relief.

Comment. Section 1128 is drawn from Code of Civil Procedure Section 1775.12. The first sentence makes it an irregularity to refer to a mediation in a subsequent civil trial; the second sentence extends that rule to other noncriminal proceedings, such as an administrative adjudication. An appropriate situation for invoking this section is where a party urges the trier of fact to draw an adverse inference from an adversary’s refusal to disclose mediation communications.

See Section 1115 (“mediation” defined).

CONFORMING REVISIONS AND REPEALS

Bus. & Prof. Code § 467.5 (amended). Communications during funded proceedings

SECTION 1. Section 467.5 of the Business and Professions Code is amended to read:

467.5. Notwithstanding the express application of ~~Section 1152.5 Chapter 2 (commencing with Section 1115) of Division 9~~ of the Evidence Code to mediations, all proceedings conducted by a program funded pursuant to this chapter, including, but not limited to, arbitrations and conciliations, are subject to ~~Section 1152.5 Chapter 2 (commencing with Section 1115) of Division 9~~ of the Evidence Code.

Comment. Section 467.5 is amended to reflect the relocation of former Evidence Code Section 1152.5 and the addition of new Evidence

Code provisions governing mediation confidentiality. See Evid. Code §§ 1115-1128 (mediation).

Code Civ. Proc. § 1775.10 (amended). Evidence Code provisions applicable to statements made in mediation

SEC. 2. Section 1775.10 of the Code of Civil Procedure is amended to read:

1775.10. All statements made by the parties during the mediation shall be subject to Sections 703.5 and 1152 and ~~1152.5~~, and Chapter 2 (commencing with Section 1115) of Division 9, of the Evidence Code.

Comment. Section 1775.10 is amended to reflect the relocation of former Evidence Code Section 1152.5 and the addition of new Evidence Code provisions governing mediation confidentiality. See Evid. Code §§ 703.5 (testimony by a judge, arbitrator, or mediator), 1115-1128 (mediation).

Heading of Chapter 2 (commencing with Section 1150) of Division 9 of the Evidence Code (amended)

SEC. 4. The heading of Chapter 2 (commencing with Section 1150) of Division 9 of the Evidence Code is amended and renumbered to read:

CHAPTER 2 3. OTHER EVIDENCE AFFECTED OR EXCLUDED BY EXTRINSIC POLICIES

Comment. The chapter heading is renumbered to reflect the addition of a new Chapter 2 (commencing with Section 1115) (Mediation).

Evid. Code § 1152.5 (repealed). Mediation confidentiality

SEC. 5. Section 1152.5 of the Evidence Code is repealed.

~~1152.5. (a) When a person consults a mediator or mediation service for the purpose of retaining the mediator or mediation service, or when persons agree to conduct and participate in a mediation for the purpose of compromising, settling, or resolving a dispute in whole or in part:~~

~~(1) Except as otherwise provided in this section, evidence of anything said or of any admission made in the course of a consultation for mediation services or in the course of the mediation is not admissible in evidence or subject to discovery, and disclosure of this evidence shall not be compelled, in any civil action or proceeding in which, pursuant to law, testimony can be compelled to be given.~~

~~(2) Except as otherwise provided in this section, unless the document otherwise provides, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence or subject to discovery, and disclosure of such a document shall not be compelled, in any civil action or proceeding in which, pursuant to law, testimony can be compelled to be given.~~

~~(3) When a person consults a mediator or mediation service for the purpose of retaining the mediator or mediation service, or when persons agree to conduct or participate in mediation for the sole purpose of compromising, settling, or resolving a dispute, in whole or in part, all communications, negotiations, or settlement discussions by and between participants or mediators in the course of a consultation for mediation services or in the mediation shall remain confidential.~~

~~(4) All or part of a communication or document which may be otherwise privileged or confidential may be disclosed if all parties who conduct or otherwise participate in a mediation so consent.~~

~~(5) A written settlement agreement, or part thereof, is admissible to show fraud, duress, or illegality if relevant to an issue in dispute.~~

~~(6) Evidence otherwise admissible or subject to discovery outside of mediation shall not be or become inadmissible or protected from disclosure solely by reason of its introduction or use in a mediation.~~

~~(b) This section does not apply where the admissibility of the evidence is governed by Section 1818 or 3177 of the Family Code.~~

~~(c) Nothing in this section makes admissible evidence that is inadmissible under Section 1152 or any other statutory provision, including, but not limited to, the sections listed in subdivision (d). Nothing in this section limits the confidentiality provided pursuant to Section 65 of the Labor Code.~~

~~(d) If the testimony of a mediator is sought to be compelled in any action or proceeding as to anything said or any admission made in the course of a consultation for mediation services or in the course of the mediation that is inadmissible and not subject to disclosure under this section, the court shall award reasonable attorney's fees and costs to the mediator against the person or persons seeking that testimony.~~

~~(e) Paragraph (2) of subdivision (a) does not limit the effect of an agreement not to take a default in a pending civil action.~~

Comment. The introductory clause of Section 1152.5(a) is not continued. See Section 1119 (mediation confidentiality).

Except as noted in the Comment to Section 1119, former Section 1152.5(a)(1)-(3) are continued without substantive change in Section 1119 (mediation confidentiality). Former Section 1152.5(a)(4) is superseded by Section 1122 (disclosure by agreement). See also Sections 1123 (written settlement agreements reached through mediation), 1124 (oral agreements reached through mediation). Former Section 1152.5(a)(5) is continued without substantive change in Section 1123 (written settlement agreements reached through mediation). Former Section 1152.5(a)(6) is continued without substantive change in Section 1120 (types of evidence not covered).

Former Section 1152.5(b) is continued without substantive change in Section 1117 (scope of chapter).

The first sentence of former Section 1152.5(c) is continued without substantive change in Section 1116 (effect of chapter). The second sentence of former Section 1152.5(c) is superseded. See Lab. Code § 65.

Except as noted in the Comment to Section 1127, former Section 1152.5(d) is continued without substantive change in Section 1127 (attorney's fees).

Former Section 1152.5(e) is continued without substantive change in Section 1120 (types of evidence not covered).

Evid. Code § 1152.6 (repealed). Mediator declarations or findings

SEC. 6. Section 1152.6 of the Evidence Code is repealed.

~~1152.6. A mediator may not file, and a court may not consider, any declaration or finding of any kind by the mediator, other than a required statement of agreement or nonagreement, unless all parties in the mediation expressly agree otherwise in writing prior to commencement of the mediation. However, this section shall not apply to mediation under Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code.~~

Comment. Former Section 1152.6 is continued and broadened in Section 1121 (mediator reports and communications). See Section 1121 Comment.

Gov't Code § 66032 (amended). Procedures applicable to land use mediations

SEC. 7. Section 66032 of the Government Code is amended to read:

66032. (a) Notwithstanding any provision of law to the contrary, all time limits with respect to an action shall be tolled while the mediator conducts the mediation, pursuant to this chapter.

(b) Mediations conducted by a mediator pursuant to this chapter that involve less than a quorum of a legislative body or a state body shall not be considered meetings of a legislative body pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), nor shall they be considered meetings of a state body pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

(c) Any action taken regarding mediation conducted pursuant to this chapter shall be taken in accordance with the provisions of current law.

(d) Ninety days after the commencement of the mediation, and every 90 days thereafter, the action shall be reactivated unless the parties to the action do either of the following:

(1) Arrive at a settlement and implement it in accordance with the provisions of current law.

(2) Agree by written stipulation to extend the mediation for another 90-day period.

~~(e) A mediator shall not file, and a court shall not consider, any declaration or finding of any kind by the mediator, other than a required statement of agreement or nonagreement, unless all parties in the mediation expressly agree otherwise, in writing.~~

~~(f) Sections 703.5 and 1152.5 of the Evidence Code shall~~

(e) Section 703.5 and Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code apply to any mediation conducted pursuant to this chapter.

Comment. Section 66032 is amended to reflect the relocation of former Evidence Code Section 1152.5 and the addition of new Evidence Code provisions governing mediation confidentiality. See Evid. Code §§ 703.5 (testimony by a judge, arbitrator, or mediator), 1115-1128 (mediation).

Former subdivision (e) is deleted as surplus. See new subdivision (e); Evid. Code § 1121 (mediator reports and communications).

Gov't Code § 66033 (amended). Land use mediator's report

SEC. 8. Section 66033 of the Government Code is amended to read:

66033. (a) At the end of the mediation, the mediator shall file a report with the Office of Permit Assistance, consistent with ~~Section 1152.5 Chapter 2 (commencing with Section 1115) of Division 9~~ of the Evidence Code, containing each of the following:

(1) The title of the action.

(2) The names of the parties to the action.

(3) An estimate of the costs avoided, if any, because the parties used mediation instead of litigation to resolve their dispute.

(b) The sole purpose of the report required by this section is the collection of information needed by the office to prepare its report to the Legislature pursuant to Section 66036.

Comment. Section 66033 is amended to reflect the relocation of former Evidence Code Section 1152.5 and the addition of new Evidence Code provisions governing mediation confidentiality. See Evid. Code §§ 1115-1128 (mediation).

Ins. Code § 10089.80 (amended). Disclosures and communications in earthquake insurance mediations

SEC. 9. Section 10089.80 of the Insurance Code is amended to read:

10089.80. (a) The representatives of the insurer shall know the facts of the case and be familiar with the allegations of the complainant. The insurer or the insurer's representative shall produce at the settlement conference a copy of the policy and all documents from the claims file relevant to the degree of loss, value of the claim, and the fact or extent of damage.

The insured shall produce, to the extent available, all documents relevant to the degree of loss, value of the claim, and the fact or extent of damage.

The mediator may also order production of other documents that the mediator determines to be relevant to the issues under mediation. If a party declines to comply with that order, the mediator may appeal to the commissioner for a determination of whether the documents requested should be produced. The commissioner shall make a determination within 21 days. However, the party ordered to produce the documents shall not be required to produce while the issue is before the commissioner in this 21-day period. If the ruling is in favor of production, any insurer that is subject to an order to

participate in mediation issued under subdivision (a) of Section 10089.75 shall comply with the order to produce. Insureds, and those insurers that are not subject to an order to participate in mediation, shall produce the documents or decline to participate further in the mediation after a ruling by the commissioner requiring the production of those other documents. Declination of mediation by the insurer under this section may be considered by the commissioner in exercising authority under subdivision (a) of Section 10089.75.

The mediator shall have the authority to protect from disclosure information that the mediator determines to be privileged, including, but not limited to, information protected by the attorney-client or work-product privileges, or to be otherwise confidential.

(b) The mediator shall determine prior to the mediation conference whether the insured will be represented by counsel at the mediation. The mediator shall inform the insurer whether the insured will be represented by counsel at the mediation conference. If the insured is represented by counsel at the mediation conference, the insurer's counsel may be present. If the insured is not represented by counsel at the mediation conference, then no counsel may be present.

(c) ~~Sections 703.5 and 1152.5~~ *Section 703.5 and Chapter 2 (commencing with Section 1115) of Division 9* of the Evidence Code apply to a mediation conducted under this chapter.

(d) ~~A mediator may not file, and a court may not consider, a declaration or finding of any kind by the mediator, other than a required statement of agreement or nonagreement, unless all parties to the mediation expressly agree otherwise in writing.~~

(e) The statements made by the parties, negotiations between the parties, and documents produced at the mediation are confidential. However, this confidentiality shall not restrict the access of the department to documents or other

information the department seeks in order to evaluate the mediation program or to comply with reporting requirements. This subdivision does not affect the discoverability or admissibility of documents that are otherwise discoverable or admissible.

Comment. Section 10089.80 is amended to reflect the relocation of former Evidence Code Section 1152.5 and the addition of new Evidence Code provisions governing mediation confidentiality. See Evid. Code §§ 703.5 (testimony by a judge, arbitrator, or mediator), 1115-1128 (mediation). Former subdivision (d) is deleted as surplus. See subdivision (c); Evid. Code § 1121 (mediator reports and communications).

Ins. Code § 10089.82 (amended). Noncompulsory participation in mediation

SEC. 10. Section 10089.82 of the Insurance Code is amended to read:

10089.82. (a) An insured may not be required to use the department's mediation process. An insurer may not be required to use the department's mediation process, except as provided in Section 10089.75.

(b) Neither the insurer nor the insured is required to accept an agreement proposed during the mediation.

(c) If the parties agree to a settlement agreement, the insured will have three business days to rescind the agreement. *Notwithstanding Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code, if the insured rescinds the agreement, it may not be admitted in evidence or disclosed unless the insured and all other parties to the agreement expressly agree to its disclosure.* If the agreement is not rescinded by the insured, it is binding on the insured and the insurer, and acts as a release of all specific claims for damages known at the time of the mediation presented and agreed upon in the mediation conference. If counsel for the insured is present at the mediation conference and a settlement is agreed upon that is signed by the insured's

counsel, the agreement is immediately binding on the insured and may not be rescinded.

(d) This section does not affect rights under existing law for claims for damage that were undetected at the time of the settlement conference.

(e) All settlements reached as a result of department-referred mediation shall address only those issues raised for the purpose of resolution. Settlements and any accompanying releases are not effective to settle or resolve any claim not addressed by the mediator for the purpose of resolution, nor any claim that the insured may have related to the insurer's conduct in handling the claim.

Referral to mediation or the pendency of a mediation under this article is not a basis to prevent or stay the filing of civil litigation arising in whole or in part out of the same facts. Any applicable statute of limitations is tolled for the number of days beginning from the referral to mediation until the date on which the mediation is either completed or declined, or the date on which the insured fails to appear for a scheduled mediation for the second time, or, in the event that a settlement is completed, the expiration of any applicable three business day cooling off period.

Comment. Subdivision (c) of Section 10089.82 is amended to reflect the addition of new Evidence Code provisions governing mediation confidentiality. See Evid. Code §§ 1115-1128 (mediation).

Lab. Code § 65 (amended). Powers and duties of department; access to records

SEC. 11. Section 65 of the Labor Code is amended to read:

65. The department may investigate and mediate labor disputes providing any bona fide party to *such this type of* dispute requests intervention by the department and the department may proffer its services to both parties when work stoppage is threatened and neither party requests intervention. In the interest of preventing labor disputes the department

shall endeavor to promote sound union-employer relationships. The department may arbitrate or arrange for the selection of boards of arbitration on such terms as all of the bona fide parties to such *the* dispute may agree upon. *Records Any decision or award arising out of an arbitration conducted pursuant to this section is a public record. Section 703.5 and Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code apply to a mediation conducted by the California State Mediation and Conciliation Service, and any person conducting the mediation. All other records of the department relating to labor disputes are confidential; provided, however, that any decision or award arising out of arbitration proceedings shall be a public record.*

Comment. Section 65 is amended to reflect the addition of new Evidence Code provisions governing mediation confidentiality and make clear that those provisions apply to mediations conducted by the State Mediation and Conciliation Service. See Evid. Code §§ 703.5 (testimony by a judge, arbitrator, or mediator), 1115-1128 (mediation).

Welf. & Inst. Code § 350 (amended). Conduct of proceedings

SEC. 12. Section 350 of the Welfare and Institutions Code is amended to read:

350. (a) (1) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his or her welfare with any provisions that the court may make for the disposition and care of the minor.

(2) Each juvenile court is encouraged to develop a dependency mediation program to provide a problem-solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The Legislature finds that mediation of these matters assists the court in resolving conflict, and helps the court to intervene in a constructive manner in those cases where court intervention is necessary. Notwithstanding any other provision of law, no person, except the mediator, who is required to report suspected child abuse pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), shall be exempted from those requirements under ~~Section 1152.5~~ *Chapter 2 (commencing with Section 1115) of Division 9* of the Evidence Code because he or she agreed to participate in a dependency mediation program established in the juvenile court.

If a dependency mediation program has been established in a juvenile court, and if mediation is requested by any person who the judge or referee deems to have a direct and legitimate interest in the particular case, or on the court's own motion, the matter may be set for confidential mediation to develop a plan in the best interests of the child, utilizing resources within the family first and within the community if required.

(b) The testimony of a minor may be taken in chambers and outside the presence of the minor's parent or parents, if the minor's parent or parents are represented by counsel, the counsel is present and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) At any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department and the minor has been closed, the court, on motion of the minor, parent, or guardian, or on its own motion, shall order whatever action the law requires of it if the court, upon weighing all of the evidence then before it, finds that the burden of proof has not been met.

That action includes, but is not limited to, the dismissal of the petition and release of the minor at a jurisdictional hearing, the return of the minor at an out-of-home review held prior to the permanency planning hearing, or the termination of jurisdiction at an in-home review. If the motion is not granted, the parent or guardian may offer evidence without first having reserved that right.

Comment. Subdivision (a)(2) of Section 350 is amended to reflect the relocation of former Evidence Code Section 1152.5 and the addition of new Evidence Code provisions governing mediation confidentiality. See Evid. Code §§ 1115-1128 (mediation).

APPENDIX 6

REPORT OF THE CALIFORNIA LAW REVISION COMMISSION ON CHAPTER 892 OF THE STATUTES OF 1997 (SENATE BILL 73)

Trial Court Delay Reduction Deadlines

Chapter 892 of the Statutes of 1997 was introduced as Senate Bill 73 by Senator Quentin L. Kopp. The legislation includes a provision recommended by the Commission. 1997 Cal. Stat. ch. 892, §§ 13, 14. See *Tolling Statute of Limitations When Defendant Is Out of State*, 26 Cal. L. Revision Comm'n Reports 83, 98-102 (1996). The Comments set out below supersede the Comments to Government Code Section 68616 in the original recommendation.

Gov't Code § 68616 (operative until Jan. 1, 1999) (amended). Delay reduction deadlines and procedures

Comment. Subdivision (a) of Section 68616 is amended to ensure that the delay reduction deadline for service of process is extended when a plaintiff is unable to achieve service within the prescribed period despite diligent efforts to do so.

Gov't Code § 68616 (operative Jan. 1, 1999) (amended). Delay reduction deadlines and procedures

Comment. Subdivision (a) of Section 68616 is amended to ensure that the delay reduction deadline for service of process is extended when a plaintiff is unable to achieve service within the prescribed period despite diligent efforts to do so.

APPENDIX 7

STATE OF CALIFORNIA

**CALIFORNIA LAW
REVISION COMMISSION**

RECOMMENDATION

Inheritance by Foster Child or Stepchild

October 1997

**California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739**

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative.

Cite this report as *Inheritance by Foster Child or Stepchild*, 27 Cal. L. Revision Comm'n Reports 625 (1997).

STATE OF CALIFORNIA

PETE WILSON, Governor

CALIFORNIA LAW REVISION COMMISSION

4000 Middlefield Road, Room D-1
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COLIN W. WIED

October 9, 1997

To: The Honorable Pete Wilson
Governor of California, and
The Legislature of California

Existing law treats a foster child or stepchild as a natural child for purposes of inheritance if the relationship with the foster parent or stepparent began during the child's minority and continued throughout their joint lifetimes, and it is established by clear and convincing evidence that the foster parent or stepparent would have adopted the child "but for a legal barrier."

This recommendation would codify case law holding that the legal barrier to adoption need only exist at the time the adoption was contemplated or attempted, and rejects cases holding that the legal barrier must exist throughout their joint lifetimes. This recommendation would also make clear that the legal barrier to adoption does not include refusal of the child to consent or agree to the adoption.

This recommendation was prepared pursuant to Resolution Chapter 102 of the Statutes of 1997.

Respectfully submitted,

Christine W.S. Byrd
Chairperson

INHERITANCE BY FOSTER CHILD OR STEPCHILD

For the purpose of intestate succession, a foster child or stepchild is treated as having a natural parent-child relationship with the foster parent or stepparent if the relationship began during the child's minority, continued for their joint lifetimes, and it is established by clear and convincing evidence that the foster parent or stepparent would have adopted the child "but for a legal barrier."¹ The cases conflict on whether the legal barrier must exist throughout the joint lifetimes of the foster parent or stepparent and the child, or merely at the time the adoption was contemplated or attempted.²

The legal barrier to adoption is usually the natural parent's failure to consent.³ If it is clear the foster parent or stepparent

1. Prob. Code § 6454.

2. *Compare* Estate of Cleveland, 17 Cal. App. 4th 1700, 22 Cal. Rptr. 2d 590 (1993) (legal barrier must exist throughout joint lifetimes of foster parent or stepparent and foster child or stepchild), *with* Estate of Smith, 42 Cal. Rptr. 2d 42 (1995) (legal barrier need only exist when adoption was contemplated or attempted — opinion not certified for publication in official reports), *and* Estate of Stevenson, 11 Cal. App. 4th 852, 14 Cal. Rptr. 2d 250 (1992) (legal barrier need only exist when adoption was contemplated or attempted). See also Estate of Joseph, 61 Cal. Rptr. 2d 803 (1997), *review granted and opinion superseded*, 939 P.2d 745, 65 Cal. Rptr. 2d 345 (June 11, 1997).

3. See *Stevenson*, 11 Cal. App. 4th at 866, 14 Cal. Rptr. 2d at 257. See also Prob. Code § 6454 Comment. Possible legal barriers to adoption are: (1) the proposed adoptee is a minor and is less than 10 years younger than the person wishing to adopt (Fam. Code § 8601); (2) a natural parent refuses to consent to the adoption of a minor (*id.* §§ 8604, 9003, 9006); (3) a proposed adoptee over the age of 12 refuses to consent (*id.* § 8602); (4) the person who wishes to adopt is married and his or her spouse refuses to consent (*id.* § 9301); (5) the proposed adoptee is married and his or her spouse refuses to consent (*id.* § 9302). And the court may decline to approve an adoption that is not in the proposed adoptee's best interest. *Id.* § 8612. The recommended legislation would make clear that, for the purpose of Probate Code Section 6454, the legal barrier to adoption does not include refusal of the proposed adoptee to consent or agree to the adoption. To permit the child to inherit because of his or her refusal to consent has been

would have adopted the child but for the natural parent's refusal to consent, to treat the relationship between the foster parent or stepparent and the foster child or stepchild the same as a natural relationship for the purpose of intestate succession carries out the likely intent of the decedent and avoids denying inheritance on technical or legalistic grounds. But parental consent is not required to adopt an adult.⁴ Thus a requirement that the legal barrier must continue for life would preclude inheritance by virtually all adults from or through a foster parent or stepparent.⁵ Such a construction would frustrate the underlying purpose of the statute to carry out the likely intent of the intestate decedent.⁶

The Commission recommends codifying case law limiting the existence of the required legal barrier to adoption to the time when adoption was contemplated or attempted.⁷ This

called "ridiculous." Oldman & Cooley, *Lineage Limits: The Struggle to Define Barriers to Adoption*, S.F. Daily J., April 16, 1997, at 5.

4. Fam. Code § 9302(b).

5. See *Smith*, 42 Cal. Rptr. at 45, 48.

6. See *id.* at 43; *Cleveland*, 17 Cal. App. 4th at 1706, 22 Cal. Rptr. 2d at 594.

7. This view is supported by the commentators. See 17 CEB Est. Plan. & Cal. Prob. Rep. 22 (Aug. 1995) (decision and reasoning of *Estate of Smith* "seem sound"); Oldman & Cooley, *Extended Family: Determining Heirship Without Adoption*, S.F. Daily J., July 18, 1995, at 5 (decision in *Estate of Smith* "makes more sense" than in *Estate of Cleveland*).

One article calls for repeal of Probate Code Section 6454, finding the section "vague" and that it injects "uncertainty into an area where predictability is essential." Meadow & Loeb, *Heirs Unapparent: An Anomalous Rule of Intestate Succession Triggers a Standoff in the Courts of Appeal*, 17 L.A. Law., No. 4, June 1994, at 34. But much of this article was devoted to showing how the conflict in the case law is the cause of much of the uncertainty. The recommended legislation will resolve that conflict and eliminate the uncertainty from that cause.

Another article focuses on the stepchild, and recommends removing all requirements from Section 6454 except a requirement of a "legitimate family relationship" between the decedent and stepchild, a flexible concept that would require the court to examine the details of the family relationship. Note, *Intestate Succession for Stepchildren: California Leads the Way, but Has It Gone Far*

relaxation of the standards for inheritance should not lead to an increase of manufactured claims because of the requirements that the parent-child relationship must continue throughout their joint lifetimes, and that evidence of intent to adopt must be clear and convincing.⁸ The Commission also recommends making clear that the required legal barrier to adoption does not include refusal of the proposed adoptee to consent or agree to the adoption.

Enough?, 47 Hastings L.J. 257, 279-85 (1995). The recommended legislation does not go this far.

8. See Prob. Code § 6454.

PROPOSED LEGISLATION

Prob. Code § 6454 (amended). Inheritance from or through foster parent or stepparent

SECTION 1. Section 6454 of the Probate Code is amended to read:

6454. For the purpose of determining intestate succession by a person or the person's issue from or through a foster parent or stepparent, the relationship of parent and child exists between that person and the person's foster parent or stepparent if both of the following requirements are satisfied:

(a) The relationship began during the person's minority and continued throughout the joint lifetimes of the person and the person's foster parent or stepparent.

(b) It is established by clear and convincing evidence that the foster parent or stepparent would have adopted the person but for a legal barrier *existing at the time the adoption was contemplated or attempted, other than that person's refusal to consent or agree to the adoption.*

Comment. Subdivision (b) of Section 6454 is amended to require that the legal barrier to adoption must have existed at the time the adoption was contemplated or attempted. This codifies Estate of Stevenson, 11 Cal. App. 4th 852, 14 Cal. Rptr. 2d 250 (1992), and rejects Estate of Cleveland, 17 Cal. App. 4th 1700, 22 Cal. Rptr. 2d 590 (1993). Subdivision (b) is also amended to make clear that the legal barrier referred to in this section does not include refusal of the proposed adoptee to consent or agree to the adoption.

The continuous relationship contemplated by Section 6454 is a family relationship between the foster parent and foster child or between the stepparent and stepchild. Estate of Claffey, 209 Cal. App. 3d 254, 258-59, 257 Cal. Rptr. 197, 199-200 (1989). It does not require that the status of foster child or stepchild continue for life, however, so long as a parent and child relationship continues to exist. Thus, the fact that the foster child status terminates after the time the adoption was contemplated or attempted does not affect the child's right to inherit under Section 6454, as long as a parent-child relationship continues. See, e.g., Estate of Lind, 209 Cal. App. 3d 1424, 257 Cal. Rptr. 853 (1989). Likewise, divorce of the stepparent does not affect the right of the stepchild to inherit from or

through the stepparent under this section. *Cf.* Estate of Stevenson, *supra*, 11 Cal. App. 4th at 862, 14 Cal. Rptr. 2d at 254-55 (seven-year separation).

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Volume 1 (1957)

[Hardcover Volume Out of Print]

| | | | |
|-----|---|----------------|-----------------|
| #1 | 1955 [Annual] Report [for 1954] — includes: • Homestead Law and Probate Code Sections 640 to 646 • Summary Disposition of Small Estates Under Probate Code Sections 640 to 646 | 1/55 59 pp | 1:1-1 OOP |
| #2 | 1956 [Annual] Report [for 1955] — includes: • Comparative Survey of the California Inheritance and Gift Tax Laws and the Federal Estate and Gift Tax Laws | 3/56 63 pp | 1:2-1 OOP |
| #3 | 1957 [Annual] Report [for 1956] | 1/57 28 pp | 1:3-1 OOP |
| #4 | Maximum Period of Confinement in a County Jail — includes: • Maximum Period of Confinement in a County Jail (Rec) • Penal Code Section 19a and Related Code Sections (Study) | 10/56 34 pp | 1:A-1 OOP |
| #5 | Notice of Application for Attorney's Fees and Costs in Domestic Relations Actions — includes: • Notice of Application for Attorney's Fees and Costs in Domestic Relations Actions (Rec) • Use of Motions and Orders To Show Cause in Connection with Awards of Attorney's Fees and Costs Pursuant to Civil Code Section 137.3 (Study) | 11/56 13 pp | 1:B-1 OOP |
| #6 | Taking Instructions to the Jury Room — includes: • Taking Instructions to the Jury Room (Rec) • Whether the Jury Should Be Given a Copy of the Court's Instructions To Take into the Jury Room (Study) | 11/56 17 pp | 1:C-1 OOP |
| #7 | Dead Man Statute — includes: • Dead Man Statute (Rec) • Whether the Dead Man Statute Should Be Modified or Repealed (Study) | 2/57 54 pp | 1:D-1 OOP |
| #8 | Rights of Surviving Spouse in Property Acquired by Decedent While Domiciled Elsewhere — includes: • Rights of Surviving Spouse in Property Acquired by Decedent While Domiciled Elsewhere (Rec) • Whether Section 201.5 of the Probate Code Should Be Revised (Study) | 12/56 39 pp | 1:E-1 OOP |
| #9 | Marital "For and Against" Testimonial Privilege — includes: • Marital "For and Against" Testimonial Privilege (Rec) • Whether the "For and Against" Testimonial Privilege of Married Persons Should Be Revised (Study) | 11/56 20 pp | 1:F-1 OOP |
| #10 | Suspension of the Absolute Power of Alienation — includes: • Suspension of the Absolute Power of Alienation (Rec) • Whether the Sections of the Civil Code Prohibiting Suspension of the Absolute Power of Alienation Should Be Repealed (Study) | 11/56 32 pp | 1:G-1 OOP |
| #11 | Elimination of Obsolete Provisions in Penal Code Sections 1377 and 1378 | 10/56 4 pp | 1:H-1 \$5.50 |

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| #12 | Judicial Notice of the Law of Foreign Countries — includes: | 2/57 | 1:I-1 |
| | • Judicial Notice of the Law of Foreign Countries (Rec) | 24 pp | OOP |
| | • Whether California Courts Should Take Judicial Notice of the Law of Foreign Countries (Study) | | |
| #13 | Choice of Law Governing Survival of Actions — includes: | 2/57 | 1:J-1 |
| | • Choice of Law Governing Survival of Actions (Rec) | 20 pp | OOP |
| | • Law Which Should Govern Survival of Actions Arising in Another State When Suit Is Brought in California (Study) | | |
| #14 | Effective Date of an Order Ruling on a Motion for New Trial — includes: | 2/57 | 1:K-1 |
| | • Effective Date of an Order Ruling on a Motion for New Trial (Rec) | 27 pp | OOP |
| | • Effective Date of New Trial Orders in Relation to Section 660 of the Code of Civil Procedure (Study) | | |
| #15 | Retention of Venue for Convenience of Witnesses — includes: | 2/57 | 1:L-1 |
| | • Retention of Venue for Convenience of Witnesses (Rec) | 29 pp | OOP |
| | • California Law Relating to Retention of Venue for Convenience of Witnesses (Study) | | |
| #16 | Bringing New Parties into Civil Actions — includes: | 2/57 | 1:M-1 |
| | • Bringing New Parties into Civil Actions (Rec) | 24 pp | OOP |
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Volume 2 (1959)

[Hardcover Volume Out of Print]

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|-----|--|--------|---------|
| #17 | 1958 [Annual] Report [for 1957] | 3/58 | 2:I-1 |
| | | 25 pp | \$8.50 |
| #18 | 1959 [Annual] Report [for 1958] — includes: | 1/59 | 2:2-1 |
| | • Procedure for Appointing Guardians | 29 pp | \$8.50 |
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| | • Overlapping Provisions of Penal and Vehicle Codes Relating to Taking of Vehicles and Drunk Driving (Rec) | 22 pp | \$8.50 |
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|-----|--|-------|--------|
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| | • Time Within Which Motions for New Trial and To Vacate Judgment May Be Made (Rec) | 16 pp | \$8.50 |
| | • Time Within Which a Motion for a New Trial May Be Made When Notice of Entry of Judgment Has Not Been Given (Study) | | |
| #25 | Notice to Shareholders of Sale of Corporate Assets — includes: | 1/59 | 2:G-1 |
| | • Notice to Shareholders of Sale of Corporate Assets (Rec) | 18 pp | \$8.50 |
| | • Notice to Shareholders of a Sale of All or Substantially All of the Assets of a Corporation (Study) | | |

Volume 3 (1961)

[Hardcover Volume Out of Print]

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| #26 | 1960 [Annual] Report [for 1959] | 3/60 | 3:1-1 |
| | | 15 pp | OOP |
| #27 | 1961 [Annual] Report [for 1960] | 1/61 | 3:2-1 |
| | | 15 pp | OOP |
| #28 | Evidence in Eminent Domain Proceedings — includes: | 10/60 | 3:A-1 |
| | • Evidence in Eminent Domain Proceedings (Rec) | 65 pp | \$18.00 |
| | • Evidence in Eminent Domain Proceedings (Study) | | |
| #29 | Taking Possession and Passage of Title in Eminent Domain Proceedings — includes: | 10/60 | 3:B-1 |
| | • Taking Possession and Passage of Title in Eminent Domain Proceedings (Rec) | 66 pp | OOP |
| | • Taking Possession and Passage of Title in Eminent Domain Proceedings (Study) | | |
| #30 | Reimbursement for Moving Expenses when Property Is Acquired for Public Use — includes: | 10/60 | 3:C-1 |
| | • Reimbursement for Moving Expenses when Property Is Acquired for Public Use (Rec) | 36 pp | OOP |
| | • Reimbursement for Moving Expenses when Property Is Acquired for Public Use (Study) | | |
| #31 | Rescission of Contracts — includes: | 10/60 | 3:D-1 |
| | • Rescission of Contracts (Rec) | 35 pp | OOP |
| | • Rescission of Contracts (Study) | | |
| #32 | Right to Counsel and the Separation of the Delinquent Minor from the Nondelinquent Minor in Juvenile Court Proceedings — includes: | 10/60 | 3:E-1 |
| | • Right to Counsel and the Separation of the Delinquent Minor from the Nondelinquent Minor in Juvenile Court Proceedings (Rec) | 43 pp | OOP |
| | • Juvenile's Right to Counsel and the Designation of Nondelinquent Minor As "Ward of the Juvenile Court" (Study) | | |
| #33 | Survival of Actions — includes: | 10/60 | 3:F-1 |
| | • Survival of Actions (Rec) | 26 pp | OOP |
| | • Survival of Tort Actions (Study) | | |
| #34 | Arbitration — includes: | 12/60 | 3:G-1 |
| | • Arbitration (Rec) | 64 pp | OOP |
| | • Arbitration (Study) | | |

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| #35 | Presentation of Claims Against Public Officers and Employees — includes: | 10/60 | 3:H-1 |
| | • Presentation of Claims Against Public Officers and Employees (Rec) | 36 pp | OOP |
| | • Presentation of Claims Against Public Officers and Employees (Study) | | |
| #36 | Inter Vivos Marital Property Rights in Property Acquired While Domiciled Elsewhere — includes: | 10/60 | 3:I-1 |
| | • Inter Vivos Marital Property Rights in Property Acquired While Domiciled Elsewhere (Rec) | 35 pp | OOP |
| | • Inter Vivos Marital Property Rights in Property Acquired While Domiciled Elsewhere (Study) | | |
| #37 | Notice of Alibi in Criminal Actions — includes: | 10/60 | 3:J-1 |
| | • Notice of Alibi in Criminal Actions (Rec) | 22 pp | \$8.50 |
| | • Notice of Alibi in Criminal Actions (Study) | | |

Volume 4 (1963)

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| #38 | 1962 Annual Report [for 1961] | 3/62 | 4:1 |
| | | 23 pp | \$8.50 |
| #39 | 1963 Annual Report [for 1962] | 1/63 | 4:101 |
| | | 18 pp | \$8.50 |
| #40 | 1964 Annual Report [for 1963] | 12/63 | 4:201 |
| | | 46 pp | \$8.50 |
| #41 | Uniform Rules of Evidence: Article VIII. Hearsay Evidence — includes: | 8/62 | 4:301 |
| | • Uniform Rules of Evidence: Article VIII. Hearsay Evidence (Rec) | 319 pp | OOP |
| | • Hearsay Evidence Article of the Uniform Rules of Evidence (Study) | | |
| #42 | Condemnation Law and Procedure: Number 4 — Discovery in Eminent Domain Proceedings [The first three pamphlets (unnumbered) in Volume 3 also deal with the subject of condemnation law and procedure.] — includes: | 1/63 | 4:701 |
| | • Condemnation Law and Procedure: Number 4 — Discovery in Eminent Domain Proceedings (Rec) | 74 pp | \$18.00 |
| | • Pretrial Conferences and Discovery in Eminent Domain Proceedings (Study) | | |
| #43 | Sovereign Immunity: Number 1 — Tort Liability of Public Entities and Public Employees | 1/63 | 4:801 |
| | | 86 pp | \$18.00 |
| #44 | Sovereign Immunity: Number 2 — Claims, Actions and Judgments Against Public Entities and Public Employees | 1/63 | 4:1001 |
| | | 94 pp | \$18.00 |
| #45 | Sovereign Immunity: Number 3 — Insurance Coverage for Public Entities and Public Employees | 1/63 | 4:1201 |
| | | 14 pp | \$8.50 |
| #46 | Sovereign Immunity: Number 4 — Defense of Public Employees | 1/63 | 4:1301 |
| | | 22 pp | \$8.50 |
| #47 | Sovereign Immunity: Number 5 — Liability of Public Entities for Ownership and Operation of Motor Vehicles | 1/63 | 4:1401 |
| | | 8 pp | \$5.50 |

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| #48 | Sovereign Immunity: Number 6 — Workmen's Compensation Benefits for Persons Assisting Law Enforcement or Fire Control Officers | 1/63 4:1501 8 pp \$5.50 |
| #49 | Sovereign Immunity: Number 7 — Amendments and Repeals of Inconsistent Special Statutes | 3/63 4:1601 11 pp OOP |

Volume 5 (1963)

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| #50 | Study Relating to Sovereign Immunity [Softcover publication has entire contents of hardcover volume except for the title page and some other front matter.] | 1/63 5:1 568 pp \$25.00 |
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Volume 6 (1964)

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| #51 | Uniform Rules of Evidence: Article 1. General Provisions — includes: • Uniform Rules of Evidence: Article 1. General Provisions (Rec) • General Provisions Article of the Uniform Rules of Evidence (Study) | 4/64 6:1 74 pp \$18.00 |
| #52 | Uniform Rules of Evidence: Article IX. Authentication and Content of Writings — includes: • Uniform Rules of Evidence: Article IX. Authentication and Content of Writings (Rec) • Authentication Article of the Uniform Rules of Evidence (Study) | 1/64 6:101 70 pp \$18.00 |
| #53 | Uniform Rules of Evidence: Article V. Privileges — includes: • Uniform Rules of Evidence: Article V. Privileges (Rec) • Privileges Article of the Uniform Rules of Evidence (Study) | 2/64 6:201 301 pp \$25.00 |
| #54 | Uniform Rules of Evidence: Article VI. Extrinsic Policies Affecting Admissibility — includes: • Uniform Rules of Evidence: Article VI. Extrinsic Policies Affecting Admissibility (Rec) • Uniform Rules of Evidence — Extrinsic Policies Affecting Admissibility (Study) | 3/64 6:601 80 pp \$18.00 |
| #55 | Uniform Rules of Evidence: Article IV. Witnesses — includes: • Uniform Rules of Evidence: Article IV. Witnesses (Rec) • The Witnesses Article of the Uniform Rules of Evidence (Study) | 3/64 6:701 72 pp \$18.00 |
| #56 | Uniform Rules of Evidence: Article II. Judicial Notice — includes: • Uniform Rules of Evidence: Article II. Judicial Notice (Rec) • The Judicial Notice Article of the Uniform Rules of Evidence (Study) | 4/64 6:801 60 pp \$18.00 |
| #57 | Uniform Rules of Evidence: Article VII. Expert and Other Opinion Testimony — includes: • Uniform Rules of Evidence: Article VII. Expert and Other Opinion Testimony (Rec) • The Uniform Rules of Evidence — Expert and Other Opinion Testimony (Study) | 3/64 6:901 49 pp \$8.50 |

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| #58 | Uniform Rules of Evidence: Burden of Producing Evidence, Burden of Proof, and Presumptions (Replacing Article III of the Uniform Rules of Evidence) — includes: | 6/64 | 6:1001 |
| | • Uniform Rules of Evidence: Burden of Producing Evidence, Burden of Proof, and Presumptions (Replacing Article III of the Uniform Rules of Evidence) (Rec) | 148 pp | \$25.00 |
| | • Uniform Rules of Evidence — Burden of Producing Evidence, Burden of Proof, and Presumptions (Study) | | |
| #59 | Uniform Rules of Evidence: Article VIII. Hearsay Evidence [same as 4:301] — includes: | 10/62 | 6:ff-1150 |
| | • Uniform Rules of Evidence: Article VIII. Hearsay Evidence (Rec) | 272 pp | OOP |
| | • Hearsay Evidence Article of the Uniform Rules of Evidence (Study) | | |

Volume 7 (1965)

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| #60 | Evidence Code | 1/65 | 7:1 |
| | | 394 pp | OOP |
| #61 | Sovereign Immunity: Number 8 — Revisions of the Governmental Liability Act: Liability of Public Entities for Ownership and Operation of Motor Vehicles; Claims and Actions Against Public Entities and Public Employees; | 1/65 | 7:401 |
| | | 30 pp | \$8.50 |
| #62 | 1965 Annual Report [for 1964] | 1/65 | 7:801 |
| | | 16 pp | OOP |
| #63 | 1966 Annual Report [for 1965] | 12/65 | 7:901 |
| | | 28 pp | OOP |
| #64 | Evidence Code with Official Comments | 8/65 | 7:1001 |
| | | 338 pp | \$25.00 |

Volume 8 (1967)

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| #65 | Annual Report [for 1966] — includes: | 12/66 | 8:1 |
| | • Discovery in Eminent Domain Proceedings | 29 pp | \$8.50 |
| #66 | Evidence Code: Number 1 — Evidence Code Revisions | 10/66 | 8:101 |
| | | 28 pp | \$8.50 |
| #67 | Evidence Code: Number 2 — Agricultural Code Revisions | 10/66 | 8:201 |
| | | 34 pp | \$8.50 |
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| | | 13 pp | \$8.50 |
| #69 | Whether Damages for Personal Injury to a Married Person Should Be Separate or Community Property — includes: | 10/66 | 8:401 |
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| #70 | Vehicle Code Section 17150 and Related Sections — includes: | 10/66 | 8:501 |
| | • Vehicle Code Section 17150 and Related Sections (Rec) | 48 pp | \$8.50 |
| | • Imputed Contributory Negligence: The Anomaly in California Vehicle Code Section 17150 [reprinted from 17 Stan. L. Rev. 55 (1964)] (Study) | | |
| #71 | Additur — includes: | 10/66 | 8:601 |
| | • Additur (Rec) | 58 pp | \$18.00 |
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| | • Improving the Lot of the Trespassing Improver [reprinted from 11 Stan. L. Rev. 456 (1959)] (Study) | | |
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| #76 | Condemnation Law and Procedure: Number 1 — Possession Prior to Final Judgment and Related Problems — includes: | 9/67 | 8:1101 |
| | • Condemnation Law and Procedure: Number 1 — Possession Prior to Final Judgment and Related Problems (Rec) | 149 pp | \$25.00 |
| | • Possession Prior To Final Judgment in California Condemnation Procedure [reprinted from 7 Santa Clara Law. 1 (1966)] (Study) | | |
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| | • Damages for Personal Injuries to a Married Person as Separate or Community Property | | |
| | • Service of Process on Unincorporated Associations | | |

Volume 9 (1969)

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| #78 | Annual Report [for 1968] — includes: | 12/68 | 9:1 |
| | • Sovereign Immunity: Number 9 — Statute of Limitations in Actions Against Public Entities and Public Employees | 76 pp | \$18.00 |
| | • Additur and Remittitur | | |
| | • Fictitious Business Names | | |

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| #79 | Annual Report [for 1969] — includes: | 12/69 | 9:81 |
| | • Quasi-Community Property | 102 pp | OOP |
| | • Arbitration of Just Compensation | | |
| | • Evidence Code: Number 5 — Revisions of the Evidence Code | | |
| | • Real Property Leases | | |
| | • Statute of Limitations in Actions Against Public Entities and Public Employees | | |
| #80 | Mutuality of Remedies in Suits for Specific Performance — includes: | 9/68 | 9:201 |
| | • Mutuality of Remedies in Suits for Specific Performance | 32 pp | \$8.50 |
| | • Mutuality of Remedies in California Under Civil Code Section 3386 (Cox) [reprinted from 19 Hastings L.J. 1430 (1968)] | | |
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| | • Powers of Appointment | 52 pp | \$18.00 |
| | • Powers of Appointment in California [reprinted from 19 Hastings L.J. 1281 (1968)] | | |
| #82 | Real Property Leases | 10/68 | 9:401 |
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| #83 | Evidence Code: Number 4 — Revision of the Privileges Article | 11/68 | 9:501 |
| | | 13 pp | \$8.50 |
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| | • Fictitious Business Names Legislation — Modernizing California's Pioneer Statute [reprinted from 19 Hastings L.J. 1349 (1968)] | | |
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| | • Statute of Frauds and Misrepresentations as to the Credit of Third Persons: Should California Repeal Its Lord Tenterden's Act? [reprinted from 16 UCLA L. Rev 603 (1969)] | | |
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Volume 10 (1971)

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| #88 | California Inverse Condemnation Law — includes: | 6/71 | 10:1 |
| | • Ch. 1: The Scope of Legislative Power (Van Alstyne) [reprinted from 29 Stan. L. Rev. 727 (1967)] | 433 pp | OOP |
| | • Ch. 2: Inverse Condemnation Goals and Policy Criteria (Van Alstyne) [reprinted from 8 Santa Clara Law. 1 (1967)] | | |
| | • Ch. 3: Deliberately Inflicted Injury or Destruction (Van Alstyne) [reprinted from 20 Stan. L. Rev. 617 (1968)] | | |
| | • Ch. 4: Unintended Physical Damage (Van Alstyne) [reprinted from 20 Hastings L.J. 421 (1969)] | | |
| | • Ch. 5: Intangible Detriment (Van Alstyne) [reprinted from 16 UCLA L. Rev. 491 (1969)] | | |
| | • Ch. 6: Taking or Damaging by Police Power (Van Alstyne) [reprinted from 44 S. Cal. L. Rev. 1 (1970)] | | |
| | • Ch. 7: Recent Developments in California Inverse Condemnation Law (Sterling) | | |
| #89 | Counterclaims and Cross-Complaints, Joinder of Causes of Action, and Related Provisions — includes: | 10/70 | 10:501 |
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| | | 101 pp | OOP |
| #91 | Annual Report [for 1970] — includes: | 12/70 | 10:1001 |
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| #92 | Annual Report [for 1971] — includes: | 12/71 | 10:1101 |
| | • Attachment, Garnishment, and Exemptions from Execution: Discharge from Employment | 68 pp | \$18.00 |

Volume 11 (1973)

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| #93 | Civil Arrest — includes: | 7/72 | 11:1 |
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| #94 | Wage Garnishment and Related Matters | 10/72 | 11:101 |
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| #102 | Annual Report [for 1972] | 12/72 | 11:1001 |
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| | Rev. 84 (1972)] | | |

Volume 12 (1974)

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| #105 | Condemnation Law and Procedure: The Eminent Domain Law | 1/74 | 12:1 |
| | | 496 pp | OOP |
| #106 | Annual Report [for 1974] — includes: | 12/74 | 12:501 |
| | • Payment of Judgments Against Local Public Entities | 132 pp | \$25.00 |
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| | • Good Cause Exception to the Physician-Patient Privilege | | |
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| | Orders and Similar Instruments | | |
| #107 | Wage Garnishment Exemptions | 12/74 | 12:901 |
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| #112 | Selected Legislation Relating to Creditors' Remedies | 1/75 | 13:1 |
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| #113 | Oral Modification of Written Contracts — includes: | 1/75 | 13:301 |
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| | • Modification of Written Contracts in California [reprinted from 23 Hastings L.J. 1549 (1972)] (Study) | | |
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| | • Damages in Action for Breach of Lease | | |
| | • Wage Garnishment | | |
| | • Liquidated Damages | | |
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| | • Relocation Assistance by Private Condemnors | | |
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| | • Transfer of Out-of-State Trusts to California | | |
| | • Admissibility of Duplicates in Evidence | | |
| | • Oral Modification of Contracts | | |
| | • Liquidated Damages | | |
| #121 | Nonprofit Corporation Law | 11/76 | 13:2201 |
| | | 548 pp | \$35.00 |

Volume 14 (1978)

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| #122 | Annual Report [for 1977] — includes: | 12/77 | 14:1 |
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| | • Attachment Law: Effect of Bankruptcy Proceedings; Effect of General Assignments for Benefit of Creditors | | |
| | • Review of Resolution of Necessity by Writ of Mandate | | |
| | • Use of Court Commissioners Under the Attachment Law | | |
| | • Evidence of Market Value of Property | | |
| | • Psychotherapist-Patient Privilege | | |
| | • Parol Evidence Rule | | |
| #123 | Annual Report [for 1978] — includes: | 12/78 | 14:201 |
| | • Technical Revisions in the Attachment Law: Unlawful Detainer Proceedings; Bond for Levy on Joint Deposit Account or Safe Deposit Box; Definition of “Chose in Action” | 150 pp | \$25.00 |
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| | • Security for Costs | | |
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| | | 488 pp | \$35.00 |

Volume 15 (1980) – Part I [Hardcover Volume Out of Print]

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| #125 | Enforcement of Judgments — includes: | 1/80 | 15.1:1 |
| | • Interest Rate on Judgments | 128 pp | \$25.00 |
| | • Married Women as Sole Traders | | |
| | • State Tax Liens | | |
| #126 | Application of Evidence Code Property Valuation Rules in Noncondemnation Cases | 3/79 | 15.1:301 |
| | | 39 pp | \$8.50 |
| #127 | Uniform Durable Power of Attorney Act | 12/80 | 15.1:351 |
| | | 34 pp | \$8.50 |
| #128 | Probate Homestead | 11/79 | 15.1:401 |
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| | • Special Assessment Liens on Property Taken for Public Use | | |
| | • Assignments for the Benefit of Creditors | | |
| | • Vacation of Public Streets, Highways, and Service Easements | | |
| | • Quiet Title Actions | | |
| | • Agreements for Entry of Paternity and Support Judgments | | |
| | • Enforcement of Claims and Judgments Against Public Entities | | |
| | • Uniform Veterans Guardianship Act | | |
| | • Psychotherapist-Patient Privilege | | |
| | • Enforcement of Obligations After Death | | |

Volume 15 (1980) – Part II [Hardcover Volume Out of Print]

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| #131 | Annual Report [for 1980] — includes: | 12/80 | 15.2:1401 |
| | • Revision of the Guardianship-Conservatorship Law: Appointment of Successor Guardian or Conservator; Support of Conservatee Spouse from Community Property; Appealable Orders | 102 pp | \$25.00 |
| #132 | Probate and Estate Planning — includes: | 12/80 | 15.2:1601 |
| | • Non-Probate Transfers | 96 pp | \$18.00 |
| | • Revision of the Powers of Appointment Statute | | |
| #133 | Enforcement of Judgments Law | 10/80 | 15.2:2001 |
| | | 686 pp | \$25.00 |

Volume 16 (1982) [Hardcover Volume Out of Print]

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| #134 | Annual Report [for 1981] — includes: | 12/81 | 16:1 |
| | • Federal Military and Other Federal Pensions as Community Property | 62 pp | \$18.00 |
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| | • Garnishment of Amounts Payable to Trust Beneficiary | | | | |
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| | • Right of Surviving Spouse to Dispose of Community Property | | |
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Volume 21 (1991)

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